

HOUSE BILL REPORT

HB 2366

As Reported By House Committee On:
Judiciary

Title: An act relating to liability of volunteers.

Brief Description: Preventing liability of volunteers.

Revised for 1 Substitute: Limiting liability of volunteers.

Sponsors: Representatives Lantz, Skinner, Ogden, Carlson and Anderson.

Brief History:

Committee Activity:

Judiciary: 1/20/00, 2/3/00 [DPS].

Brief Summary of Substitute Bill

- Limits the personal liability of nonprofit or government volunteers.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Carrell, Republican Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Chad Barnes (786-5793); Edie Adams (786-7180).

Background:

A volunteer working on behalf of a nonprofit organization or government entity may be held personally liable to a person who is harmed by the volunteer's actions or omissions committed in the course of his or her volunteer duties.

In 1997, Congress passed the Volunteer Protection Act (VPA). The VPA limits the liability of nonprofit or government volunteers. Under the VPA a volunteer can only be held liable for harm resulting from acts or omissions that constitute gross

negligence, willful misconduct, or reckless misconduct. A volunteer is exempted from liability for simple negligence.

The VPA preempts any inconsistent state law except where state law provides additional protections for the volunteer. A state may choose to opt out of the VPA by enacting a statute declaring that the VPA does not apply. Washington has not opted out of the VPA.

Summary of Substitute Bill:

Exempts a volunteer of a nonprofit organization or governmental entity from liability for harm caused by an act or omission of the volunteer on behalf of the organization or entity if:

- (1) the volunteer was acting within the scope of his or her responsibilities at the time;
- (2) the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice;
- (3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed; and
- (4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or owner to possess an operator's license or maintain insurance.

"Volunteer" is defined as an individual performing services for a nonprofit organization or governmental entity who does not receive compensation, other than reasonable reimbursement for expenses actually incurred, or any other thing of value, over \$500 per year. "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

"Nonprofit organization" is defined as any 501(c)(3) or 501(c)(14)(A) organization under the Internal Revenue Code, as well as any not-for-profit organization that is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

Definitions of "harm," "economic loss," and "non-economic loss," are also included in the bill.

Substitute Bill Compared to Original Bill: The substitute bill adds credit unions to the definition of nonprofit organizations. The substitute bill also adds language clarifying that the intent is to limit the personal liability of volunteers, and not to limit the liability of the sponsoring organization.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Volunteers are an important part of a number of organizations. In fact, many smaller organizations survive only through the efforts of their volunteers. Currently, the liability insurance policies that many organizations carry may not cover a volunteer personally, even if he or she is acting within the scope of his or her duties. HB 2366 is necessary to provide volunteers a degree of protection because the Federal Volunteer Protection Act upon which the bill is modeled could be found unconstitutional. Volunteers deserve a measure of protection. This bill will encourage greater volunteerism.

Testimony Against: None.

Testified: Representative Lantz, prime sponsor; Representative Skinner; Robert Gruhn, Washington Museum Association; Joe Waldron, GOAL of Washington and Wildlife Committee of Washington; Dick Wagner, Association of King County Historical Organizations; Sharon Foster, Council of Youth Agencies; and Joanne Conger, FARESTART.