

# FINAL BILL REPORT

## SHB 1643

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Synopsis as Enacted

**Brief Description:** Limiting liability of volunteers.

**Sponsors:** By House Committee on Judiciary (originally sponsored by Representatives Lantz, Skinner, Fromhold, Ogden, Esser, Jarrett, McIntire, Rockefeller, Doumit, Keiser and Dunn).

**House Committee on Judiciary**  
**Senate Committee on Judiciary**

### **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 may 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:**

A volunteer of a nonprofit organization or governmental entity is not personally liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if:

- The volunteer was acting within the scope of his or her responsibilities at the time;
- The volunteer was properly licensed, certified, or authorized to engage in the activity;
- The harm was not caused by willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the rights or safety of others;
- The harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires an operator's license or insurance; and

- The nonprofit organization carries public liability insurance in specified amounts.

This limitation on the personal liability of volunteers does not affect the nonprofit organization's or governmental entity's direct or vicarious liability for the harm caused by the volunteer, nor does it affect the ability of the organization or entity to bring a cause of action against the volunteer.

"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, 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 provided.

**Votes on Final Passage:**

House 94 0

Senate 46 0

**Effective:** July 22, 2001