

115TH CONGRESS
1ST SESSION

H. R. 2432

To amend the Volunteer Organization Protection Act of 1997, to provide for liability protection for organizations or entities.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2017

Mr. CHABOT (for himself, Mr. ROSKAM, Mrs. WALORSKI, Mr. FARENTHOLD, Mr. FRANKS of Arizona, Mr. DESJARLAIS, Mr. BROOKS of Alabama, Mr. ROE of Tennessee, Mr. LATTA, Mr. SESSIONS, Mr. JODY B. HICE of Georgia, Ms. HERRERA BEUTLER, Mr. BARLETTA, Mr. SAM JOHNSON of Texas, Mr. MARINO, Mr. HUIZENGA, Mr. CRAMER, Mr. FASO, Mr. HENSARLING, Mr. BISHOP of Michigan, Mr. ABRAHAM, Mr. RATCLIFFE, Mr. CALVERT, Mr. EMMER, Mr. KING of Iowa, Mr. BUCSHON, and Mr. WALBERG) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Volunteer Organization Protection Act of 1997, to provide for liability protection for organizations or entities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Volunteer Organization
5 Protection Act of 2017”.

1 **SEC. 2. LIABILITY PROTECTION FOR ORGANIZATION OR**
2 **ENTITY.**

3 The Volunteer Protection Act of 1997, Public Law
4 105–19, is amended as follows:

5 (1) In section 3(a), by inserting after “relating
6 to volunteers” the following: “or volunteer nonprofit
7 organizations”.

8 (2) In section 3(b), in the matter preceding
9 paragraph (1), by inserting after “against a volun-
10 teer” the following: “or a volunteer nonprofit organi-
11 zation”.

12 (3) In section 4, in the heading, by inserting
13 **“AND VOLUNTEER NONPROFIT ORGANIZA-**
14 **TIONS”** after **“VOLUNTEERS”**.

15 (4) In section 4, by amending subsection (c) to
16 read as follows:

17 **“(c) LIABILITY PROTECTION FOR ORGANIZATION OR**
18 **ENTITY.—**

19 **“(1) No volunteer nonprofit organization shall**
20 **be liable for harm caused by an act or omission of**
21 **a volunteer on behalf of the organization unless—**

22 **“(A) the organization would be liable for**
23 **the act or omission under generally applicable**
24 **laws governing the direct or vicarious liability of**
25 **organizations; and**

1 “(B) the organization itself has expressly
2 authorized the specific conduct constituting the
3 act or omission.

4 “(2) Notwithstanding section 4(c)(1), no volun-
5 teer nonprofit organization shall be liable for harm
6 caused by an act or omission of the organization or
7 of a volunteer acting on behalf of the organization
8 if—

9 “(A) the organization or the volunteer en-
10 gaged in the act or omission at the request of
11 or pursuant to an authorization by a State or
12 the United States or any agency or subdivision
13 of either; and

14 “(B) either—

15 “(i) the requesting or authorizing gov-
16 ernmental entity would have been immune
17 either from suit or from liability in dam-
18 ages if it had engaged in the acts or omis-
19 sions itself or through employees or inde-
20 pendent contractors; or

21 “(ii) the governmental employee,
22 agent, or contractor who engaged in the
23 acts would have been immune either from
24 suit or from liability in damages by virtue

1 of immunity extended to individual govern-
2 mental actors.

3 “(3) Except as provided in paragraphs (1) and
4 (2), nothing in this section shall be construed to af-
5 fect the liability of any nonprofit organization or
6 governmental entity with respect to harm caused to
7 any person.”.

8 (5) In section 4(d), by striking paragraph (2)
9 and redesignating paragraphs (3) and (4) as para-
10 graphs (2) and (3), respectively.

11 (6) In section 4(e), in paragraph (1), by adding
12 the following after the period: “Punitive damages
13 may not be awarded against a volunteer nonprofit
14 organization in an action brought for harm based on
15 the action of a volunteer acting within the scope of
16 the volunteer’s responsibilities to the organization
17 unless the claimant establishes by clear and con-
18 vincing evidence that the organization itself ex-
19 pressly authorized the volunteer’s action and did so
20 with a conscious, flagrant indifference to the rights
21 or safety of the individual harmed.”.

22 (7) In section 4(f), by inserting “or of a volun-
23 teer nonprofit organization” after “liability of a vol-
24 unteer”.

25 (8) In section 5—

1 (A) in subsection (a)—

2 (i) by inserting “or a volunteer non-
3 profit organization” after “action against a
4 volunteer”; and

5 (ii) by inserting “or volunteer non-
6 profit organization” after “liability of the
7 volunteer”; and

8 (B) in subsection (b)—

9 (i) in paragraph (1), by inserting “or
10 a volunteer nonprofit organization” after
11 “who is a volunteer”; and

12 (ii) in paragraph (2), by inserting “or
13 volunteer nonprofit organization” after
14 “who is a volunteer”.

15 (9) In section 6, by adding at the end the fol-
16 lowing:

17 “(7) VOLUNTEER NONPROFIT ORGANIZATION.—

18 An entity is a ‘volunteer nonprofit organization’ if it
19 is any one or more of the following:

20 “(A) A nonprofit organization that con-
21 ducts substantially all of its activities solely
22 through the actions of volunteers or of inde-
23 pendent contractors. A nonprofit organization is
24 conclusively presumed to be a ‘volunteer non-

1 profit organization’ if the organization has no
2 employees.

3 “(B) A nonprofit organization is presumed
4 to be a ‘volunteer nonprofit organization’ if the
5 organization’s primary office and the majority
6 of its employees function primarily to provide
7 support to local affiliated organizations that do
8 not have employees and who act in furtherance
9 of the organization’s nonprofit mission. This
10 presumption can be rebutted only by a clear
11 and convincing showing that the organization’s
12 board expressly authorized its employees to as-
13 sert active control over the local affiliated orga-
14 nization with respect to the act or omission in
15 question.

16 “(C) A nonprofit organization that has
17 fewer than 50 employees, that has annual gross
18 receipts of less than \$200,000, and that is any
19 of the following:

20 “(i) A public charity that is exempt
21 from taxation under section 501(c)(3) of
22 the Internal Revenue Code.

23 “(ii) A private foundation that is ex-
24 empt from taxation under section
25 501(c)(3) of the Internal Revenue Code

1 but that does not qualify as a public char-
2 ity.

3 “(iii) A social welfare organization
4 that is exempt from taxation under section
5 501(c)(4) of the internal revenue code.

6 “(8) A volunteer nonprofit organization acts
7 ‘itself’ for purposes of this act only when the person
8 or body who is authorized by the organization’s gov-
9 erning documents to act in the name of and on be-
10 half of the organization expressly acts in accordance
11 with those documents. If the organization’s gov-
12 erning documents do not identify the person or body
13 who is authorized to act in the name of and on be-
14 half of the organization, the organization acts ‘itself’
15 for the purposes of this Act only when the person or
16 body whose action is required under the applicable
17 State law in order to bind the organization acts
18 strictly in accordance with such State law.”.

○