

(d) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(e) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(f) Limitation on punitive damages based on actions of volunteers**(1) General rule**

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(g) Exceptions to limitations on liability**(1) In general**

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term

is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));¹

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to effect subsection (a)(3) or (f).

(Pub. L. 105-19, §4, June 18, 1997, 111 Stat. 219; Pub. L. 115-254, div. B, title V, §584, Oct. 5, 2018, 132 Stat. 3399.)

REFERENCES IN TEXT

The Hate Crime Statistics Act, referred to in subsec. (g)(1)(B), is Pub. L. 101-275, Apr. 23, 1990, 104 Stat. 140, which was set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification as section 41305 of Title 34, Crime Control and Law Enforcement, and as provisions set out as a note under section 41305 of Title 34.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-254, §584(2), in introductory provisions, substituted “subsections (b), (c), and (e)” for “subsections (b) and (d)”.

Subsecs. (b) to (g). Pub. L. 115-254, §584(1), (3), added subsec. (b) and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

Subsec. (g)(2). Pub. L. 115-254, §584(4), substituted “(f)” for “(e)”.

§ 14504. Liability for noneconomic loss**(a) General rule**

In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) Amount of liability**(1) In general**

Each defendant who is a volunteer, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of

¹ See References in Text note below.

fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(Pub. L. 105-19, § 5, June 18, 1997, 111 Stat. 221.)

§ 14505. Definitions

For purposes of this chapter:

(1) Economic loss

The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term "harm" includes physical, non-physical, economic, and noneconomic losses.

(3) Noneconomic losses

The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) Nonprofit organization

The term "nonprofit organization" means—

(A) any organization which is described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note);¹ or

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note).¹

(5) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Volunteer

The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of \$500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(Pub. L. 105-19, § 6, June 18, 1997, 111 Stat. 221.)

REFERENCES IN TEXT

The first section of the Hate Crime Statistics Act, referred to in par. (4), is Pub. L. 101-275, § 1, Apr. 23, 1990, 104 Stat. 140, which was set out in a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification as section 41305 of Title 34, Crime Control and Law Enforcement.

CHAPTER 140—CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION

SUBCHAPTER I—CRIME IDENTIFICATION TECHNOLOGY

Sec. 14601. Transferred.

SUBCHAPTER II—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

14611 to 14616. Transferred.

SUBCHAPTER I—CRIME IDENTIFICATION TECHNOLOGY

§ 14601. Transferred

CODIFICATION

Section 14601 was editorially reclassified as section 40301 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

§ 14611. Transferred

CODIFICATION

Section 14611 was editorially reclassified as section 40311 of Title 34, Crime Control and Law Enforcement.

§ 14612. Transferred

CODIFICATION

Section 14612 was editorially reclassified as section 40312 of Title 34, Crime Control and Law Enforcement.

§ 14613. Transferred

CODIFICATION

Section 14613 was editorially reclassified as section 40313 of Title 34, Crime Control and Law Enforcement.

§ 14614. Transferred

CODIFICATION

Section 14614 was editorially reclassified as section 40314 of Title 34, Crime Control and Law Enforcement.

§ 14615. Transferred

CODIFICATION

Section 14615 was editorially reclassified as section 40315 of Title 34, Crime Control and Law Enforcement.

§ 14616. Transferred

CODIFICATION

Section 14616 was editorially reclassified as section 40316 of Title 34, Crime Control and Law Enforcement.

¹ See References in Text note below.