

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 59

Session of
2001

INTRODUCED BY BARD, CIVERA, RUBLEY, YOUNGBLOOD, KENNEY, BARRAR, BASTIAN, BEBKO-JONES, BELARDI, BENNINGHOFF, BROWNE, CLARK, DAILEY, DALEY, DeLUCA, FAIRCHILD, GEIST, GRUCELA, HARHAI, HENNESSEY, HORSEY, LAUGHLIN, LEDERER, LYNCH, MANN, MARSICO, PISTELLA, READSHAW, ROEBUCK, ROSS, SCHRODER, SCHULER, B. SMITH, SOLOBAY, STABACK, STERN, E. Z. TAYLOR, THOMAS, TIGUE, TULLI, WILT, WOGAN, WOJNAROSKI, FREEMAN, SEMMEL, PETRARCA, CLYMER, EACHUS, MCILHINNEY AND FORCIER,
JANUARY 23, 2001

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 7, 2001

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for civil
3 immunity for antidrug and town-watch volunteers.

4 The General Assembly finds and declares as follows:

5 (1) The willingness of antidrug and town-watch
6 volunteers to offer their services has been increasingly
7 deterred by a perception that they put personal assets at
8 risk in the event of tort actions seeking damages arising
9 from their activities as volunteers.

10 (2) The contributions of antidrug and town-watch
11 programs, activities and services to communities are
12 diminished by the resulting unwillingness of individuals to
13 serve either as volunteers or as officers, directors and
14 trustees of nonprofit public and private organizations.

1 (3) It is in the public interest to strike a balance
2 between the right of a person to seek redress for injury and
3 the right of an individual to freely give time and energy
4 without compensation as a volunteer working to reduce crime
5 and drug use in the community, without fear of personal
6 liability for acts undertaken in good faith, absent willful
7 or wanton conduct on the part of the volunteer.

8 (4) This act is intended to encourage volunteers to
9 contribute their services to reduce the amount of crime and
10 drug use in their communities and at the same time provide a
11 reasonable basis for redress of claims which may arise
12 relating to those services.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Title 42 of the Pennsylvania Consolidated
16 Statutes is amended by adding a section to read:

17 § 8332.6. Antidrug and town-watch volunteer civil immunity.

18 (a) General rule.--An antidrug or town-watch volunteer who
19 acts in good faith and within the scope of the volunteer's role
20 with an antidrug or crime prevention volunteer organization or
21 ~~governmental entity~~ GOVERNMENT AGENCY shall be immune from civil <—
22 liability for damage caused by acts or omissions unless all of
23 the following apply:

24 (1) The conduct of the volunteer falls substantially
25 below the standards generally practiced and accepted in like
26 circumstances by similar persons rendering such services.

27 (2) It is shown that the volunteer performed an act or
28 failed to perform an act which the volunteer was under a
29 recognized duty to another to perform, knowing or having
30 reason to know that such act or omission created a

1 substantial risk or actual harm to the person or property of
2 another. It is insufficient to impose liability under this
3 paragraph to establish only that the conduct of the volunteer
4 fell below ordinary standards of care.

5 (b) Definitions.--As used in this section, the following
6 words and phrases shall have the meanings given to them in this
7 subsection:

8 "Antidrug or town-watch volunteer." A person performing
9 services for an antidrug or town-watch volunteer organization or
10 ~~governmental entity~~ GOVERNMENT AGENCY without compensation other <—
11 than reimbursement for actual expenses incurred. The term
12 includes a volunteer serving as a director, officer, trustee or
13 direct service volunteer.

14 "Antidrug or town-watch volunteer organization." A nonprofit
15 organization, corporate volunteer program, medical facility or
16 substance abuse treatment program that uses volunteers to reduce
17 crime and drug use in the community.

18 "Corporate volunteer program." A program administered by an
19 entity other than a nonprofit organization or ~~governmental~~ <—
20 ~~entity~~ GOVERNMENT AGENCY that enlists primarily its own <—
21 employees, retirees, partners or professional affiliates in a
22 volunteer capacity to achieve objectives that would qualify as
23 charitable under section 501(c) of the Internal Revenue Code of
24 1986 (Public Law 99-514, 26 U.S.C. § 501(c)).

25 ~~"Governmental entity." A county, municipality, township,~~ <—
26 ~~school district, chartered unit or subdivision, governmental~~
27 ~~unit, other special district, similar entity or any association,~~
28 ~~authority, board, commission, division office, officer, task~~
29 ~~force or other agency of a state, county or municipality.~~

30 "Nonprofit organization." An organization which is described

1 in section 501(c) of the Internal Revenue Code of 1986 (Public
2 Law 99-514, 26 U.S.C. § 501(c)), whether or not it has been
3 certified by the Internal Revenue Service.

4 Section 2. This act shall take effect in 60 days.