

LD0719625

HOUSE BILL NO. 1158

Offered January 25, 1994

A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 8.01 an article numbered 20.1, consisting of sections numbered 8.01-217.1 through 8.01-217.5, relating to the Volunteer Immunity and Charitable Organization Liability Limitation Act.

Patrons—Albo, Callahan, Dudley, Giesen, Howell, Marshall, McClure, Morgan, Plum, Purkey and Ruff;
Senators: Calhoun, Stosch and Woods

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 8.01 an article numbered 20.1, consisting of sections numbered 8.01-217.1 through 8.01-217.5 as follows:

Article 20.1.

*Volunteer Immunity and Charitable
Organization Liability Limitation Act.*

§ 8.01-217.1. Declaration of intent.

Charitable organizations within the Commonwealth perform essential and needed services. It is therefore the intent of the legislature to encourage the formation of charitable organizations, to promote charitable donations, to preserve the resources of charitable organizations and to encourage volunteer and charitable organizations by limiting the liability of charitable organizations and volunteers.

§ 8.01-217.2. Definitions.

As used in this article:

"Charitable organization" means any organization exempt from federal income taxation by virtue of being described under § 501(c)(3) of the Internal Revenue Code.

"Good faith" means the honest, conscientious pursuit of activities and purposes that a charitable organization is organized and operated to provide.

"Government entity" means any county, city, town, school district, chartered unit or subdivision, governmental unit, other special district, similar entity, or any association, authority, board, commission, division, office, officer, task force or other agency of any state.

"Health care" means any act performed or furnished by a health care provider for, to, or on behalf of a patient pertaining to the diagnosis or treatment of any disease or disorder, mental or physical, or any physical handicap, deformity or injury.

"Health care provider" means any person, partnership, professional association, corporation, facility or institution licensed, certified or accredited by the Commonwealth to provide health care, including but not limited to a physician, licensed practical nurse, registered nurse, hospital, dentist, podiatrist, pharmacist, nursing home or any officer, employee or agent thereof acting in the course and scope of his employment.

"Volunteer" means any person, including a director, officer, trustee or direct service volunteer, who renders service for a charitable organization, nonprofit corporation, a hospital, or a government entity without compensation, other than reimbursement for actual expenses incurred.

§ 8.01-217.3. Civil immunity for volunteers.

A. Except as provided in subsection B of this section and § 8.01-217.5, a volunteer who is serving a charitable organization in any capacity is immune from civil liability for any act or omission occurring on or after July 1, 1994, resulting in death, damage, or injury if the volunteer was acting in good faith and in the course and scope of his duties or functions within the organization.

B. A volunteer acting in good faith and in the course and scope of his duties or functions within the charitable organization is not liable to a person for death, damage, or injury to the person or his property proximately caused by an act or omission occurring on or after July 1, 1994, arising from the operation or use of any motor-driven equipment, including an airplane, except to the extent of any existing insurance coverage applicable to the equipment and the act or omission.

§ 8.01-217.4. Limitation on liability of charitable organizations.

Except as provided in § 8.01-217.5, in any verdict returned or judgment entered against a charitable organization based on an act or omission by the organization or its volunteers occurring on or after July 1, 1994, the total amount recoverable from the charitable organization shall not exceed the lesser of (i) actual damages sustained or (ii) \$300,000 for each person and one million dollars for each single occurrence of bodily injury or death and \$100,000 for each single act of destruction of property and \$100,000 for any other injury.

INTRODUCED

HB1158

60 § 8.01-217.5. *Applicability.*

61 A. *This article shall not apply to (i) any act or omission by a volunteer or a charitable organization*
62 *that constitutes intentional wrongdoing, or that is willfully or wantonly negligent or that is done with*
63 *conscious indifference or reckless disregard for the safety or others nor (ii) organizations or employees*
64 *that are health care providers.*

65 B. *This article shall not limit or modify the duties or liabilities of a member of the board of directors*
66 *or an officer to the organization or its members and shareholders and shall not affect the powers and*
67 *duties of the Attorney General with regard to the charitable organizations and their directors and*
68 *officers.*