

SHORT TITLE: Civil procedure and torts; providing for privileges and immunities for certain volunteers; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 319

By: Hendrick

AS INTRODUCED

An Act relating to civil procedure and torts;
defining terms; establishing privilege for
communications between certain volunteer counselors
and certain program participants; declaring
privilege to take precedence over certain
obligations; establishing immunity from civil
liability for certain volunteers under certain
circumstances; clarifying effect of immunity on
certain civil actions and on nonprofit
organizations and governmental entities; providing
for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2514 of Title 12, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Volunteer counselor" means an individual who is not a
physician or psychotherapist as those terms are defined in
subsection A of Section 2503 of Title 12 of the Oklahoma Statutes
and who assists an individual who the volunteer counselor believes
in good faith to be in need of assistance and who does so without
compensation as defined by paragraph 2 of subsection D of Section 2
of this act as part of a supervised program of a nonprofit

organization or governmental entity. "Volunteer counselor" includes, but is not limited to, individuals participating in programs involving peer counseling such as the Lawyers-Helping-Lawyers program of the Oklahoma Bar Association and individuals who answer telephones or who serve as listeners in crisis intervention, hotline or helpline programs;

2. "Program participant" means an individual who communicates with a volunteer counselor whether or not the program participant initiated the communication; and

3. "Nonprofit organization" means any entity exempt from taxation under subsection C of Section 501 of the Internal Revenue Code.

B. No volunteer counselor shall be required to disclose in any way or by any process or procedure the content or substance of any communication between the volunteer counselor and a program participant.

C. The privilege stated in subsection B of this section shall take precedence over any other legal or ethical obligation of a volunteer counselor to disclose communications to a court, law enforcement agency, disciplinary board or tribunal or administrative agency.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, any volunteer of a nonprofit organization or governmental entity shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person when:

1. Such volunteer was acting in good faith and within the scope of the volunteer's official functions and duties with the nonprofit organization or governmental entity; and

2. Such damage or injury was not caused by willful and wanton misconduct or gross negligence by such volunteer.

B. Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or governmental entity against any volunteer of such organization or entity.

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

D. For the purposes of this section:

1. "Volunteer" means an individual who performs services for and receives no compensation from a nonprofit organization or a governmental entity and includes, but is not limited to, an individual serving as a director, officer, trustee or direct service volunteer;

2. "Compensation" means any money or other thing of value received by a volunteer for services rendered to a nonprofit organization or a governmental entity, but does not include reimbursement for expenses actually incurred;

3. "Damage" or "injury" includes, but is not limited to, physical, nonphysical, economic and noneconomic damage; and

4. "Nonprofit organization" means any entity exempt from taxation under subsection C of Section 501 of the Internal Revenue Code.

SECTION 3. This act shall become effective September 1, 1993.

43-1-0381

MHR