

SHORT TITLE: Tort liability; creating the Volunteer Service Act;
codification; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 402

By: Henry

AS INTRODUCED

An Act relating to torts; creating the "Volunteer Service Act" and providing short title; defining terms; providing immunity from civil liability for certain acts or omissions of volunteers for certain organizations and entities; stating conditions for granting immunity from civil liability; declaring proof of certain act or omission to be sufficient to establish responsibility of certain organization or entity under certain legal doctrine; allowing recovery of certain civil damages when act or omission involves motor vehicle; 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 30 of Title 76, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Volunteer Service Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.1 of Title 76, unless there is created a duplication in numbering, reads as follows:

As used in the Volunteer Service Act:

1. "Volunteer" means a person performing services for the state, or any county, city, town, municipal corporation, school district, political subdivision or a nonprofit organization or a hospital, without compensation, other than reimbursement for actual expenses incurred. The term includes a person serving as a director, officer, trustee, or direct service provider; and

2. "Nonprofit organization" means any organization which is exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code, 26 U.S.C. Section 501(c), as amended;

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.2 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

1. The volunteer was acting in good faith and within the scope of such volunteer's functions and duties for a nonprofit organization or hospital;

2. The nonprofit organization or hospital has a financially secure source of recovery for individuals who suffer injury as a result of an action or omission of a volunteer on behalf of the organization or entity. A financially secure source of recovery shall be:

- a. an insurance policy with a limit of One Million Dollars (\$1,000,000.00) or more,
- b. comparable coverage from a risk pooling mechanism, or
- c. equivalent assets; and

3. The damage or injury was not caused by willful and wanton conduct by such volunteer.

B. In any suit against a nonprofit organization or a hospital for damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the

responsibility of the organization therefor under the doctrine of respondeat superior, notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection A of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 30.3 of Title 76, unless there is created a duplication in numbering, reads as follows:

Notwithstanding Section 3 of this act, a plaintiff may sue and recover damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle while acting as a volunteer.

SECTION 5. This act shall become effective January 1, 1996.

45-1-0798 KSM