

7 GCA CIVIL PROCEDURE  
CH. 16 VOLUNTEER LIABILITY PROTECTION

**CHAPTER 16**  
**VOLUNTEER LIABILITY PROTECTION**

**SOURCE:** This Chapter was added by P.L. 25-38:3, which became law on June 7, 1999. This Chapter takes effect as follows (P.L. 25-38:5, 6):

Section 5. Effective Date. The provisions of this Act shall take effect ninety (90) days after its enactment.

Section 6. Application. This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, but only if the harm that is the subject of the claim or the conduct that caused such harm occurred on or after such effective date.

§ 16101. Short Title.

§ 16102. Definitions.

§ 16103. Liability Protection for Volunteers.

§ 16104. Limitation on Punitive Damages Based on the Actions of Volunteers.

§ 16105. Liability For Non-economic Loss: General Rule.

§ 16106. Liability For Non-economic Loss: Amount of Liability.

§ 16107. Application.

**§ 16101. Short Title.**

This Act may be cited as the *Volunteer Protection Act of 1999*.

**§ 16102. Definitions.**

For purposes of this Act:

(a) *Economic loss* shall mean 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 local law.

(b) *Harm* shall mean and include physical, nonphysical, economic and non-economic loss.

(c) *Noneconomic loss* shall mean loss 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.

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(d) *Nonprofit organization* shall mean:

(1) any organization which is described in § 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under § 501(a) of such Code; *or*

(2) any *not-for-profit* organization which is organized and conducted, pursuant to the laws of Guam, for public benefit and operated primarily for charitable, civic, educational, religious, welfare or health purposes.

(e) *Volunteer* shall mean an individual performing services for a nonprofit organization or a governmental entity, or for any entity that has entered into an agreement with a nonprofit organization or a government entity to perform public or community services for or on behalf of a nonprofit organization or a government entity, who does *not* receive compensation other than reimbursement or allowance for expenses actually incurred, and as specifically provided by workers' compensation or other law, and such term includes a volunteer serving as a director, officer, trustee or direct service volunteer.

**§ 16103. Liability Protection for Volunteers.**

Unless otherwise provided by law, no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if:

(a) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(b) the appropriate or required volunteer was properly licensed, certified or authorized by the appropriate authorities for the activities or practice on Island, in which the harm occurred, where the activities were, or practice was undertaken, within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(c) the harm was *not* caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; *and*

(d) the harm was *not* caused by the volunteer operating a motor vehicle, vessel, aircraft or other vehicle for which the operator or the owner of the vehicle, craft or vessel is required to:

(1) possess an operator's license; *or*

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(2) maintain insurance.

**§ 16104. Limitation on Punitive Damages Based on the Actions of Volunteers.**

As a 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 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.

**§ 16105. Liability For Non-economic Loss: General Rule.**

In any civil action against a volunteer based on an action of a volunteer acting within the scope of the volunteer’s responsibility to a nonprofit organization or governmental entity, the liability of the volunteer for non-economic loss shall be determined in accordance with § 16106 of this Chapter.

**§ 16106. Liability For Non-economic Loss: Amount of Liability.**

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

For purposes of determining the amount of non-economic loss allocated to a defendant who is a volunteer under this Section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant’s harm.

**§ 16107. Application.**

This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, but only if the harm that is the subject of the claim or the conduct that caused such harm occurred after such effective date.

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