

punitive damages may be awarded against a volunteer, nonprofit organization, or governmental entity because of a volunteer's actions. Because punitive damages are intended to punish and deter misconduct, a higher standard is required to trigger those damages. Punitive damages will only be available where the defendant's conduct merits punishment.

This bill also establishes a rule of proportionate liability rather than joint and several liability in suits based on the action of a volunteer. For noneconomic losses, the volunteer, the organization, and others who may be at fault in a given action will be responsible for paying only for their portion of the harm. Any defendant will continue to be jointly and severally liable for economic loss.

We have seen a problem with joint and several liability in which one defendant is made to pay for all damages even though responsible for only a small portion. Such results are a severe burden on the United Way, the national organization sponsoring numerous local nonprofits. Although it cannot control local operations, the United Way often must defend itself in suits arising from injuries caused by the local entity.

These holdings result from juries' desires to find someone with funds to pay for an innocent party's injury but the search for deep pockets produces what a Red Cross spokesperson calls "a chilling effect" on Red Cross relations with other nonprofits. The Red Cross is now less willing to cooperate with smaller more innovative local agencies that might make it more effective.

So, on the issue of joint and several liability, the bill promotes a balance between ensuring full compensation for economic losses, including medical expenses, lost earnings, placement services, and out-of-pocket expenses, among others, and ensuring fairness in not holding volunteers, nonprofit organizations, and government entities responsible for noneconomic harm they do not cause.

Mr. President, in putting this bill together, we were mindful of the concerns about federalism. While the bill will generally preempt State law to the extent that it is inconsistent with the bill, the bill will not preempt any State laws that provide additional protections from liability relating to volunteers, nonprofit organizations, and government entities. This sets an outer limit of volunteer liability while permitting States to provide even greater protections.

We give States flexibility to impose conditions and make exceptions to the granting of liability protection. And we allow States to affirmatively opt out of this law for those cases where both the plaintiff and the defendant are citizens of that State.

Mr. President, the independent sector reports that the percentage of American volunteering dropped from 54 percent in 1989 to 48 percent in 1993. That, I might add, represents thousands upon thousands of volunteers. Obviously,

there are a number of relevant factors explaining this decline. But one major reason is America's litigation explosion.

Nonprofits must spend an increasing amount of time and resources preparing for, avoiding, and/or fighting lawsuits. Litigation renders them less effective at helping people, and it scares off the volunteers which they rely on.

Mr. President, in closing, let me just once again remind my colleagues of the historic summit that occurred in Philadelphia yesterday. That summit was designed to remind Americans of something that is so very much unique to our Nation. The world has long studied and wondered and marveled at the American volunteer.

I was fortunate to be the Director of the United States Peace Corps, which has sent about 150,000 volunteers into over 100 countries over the last 35-plus years. So I have had a chance to look right in the eye at this unique quality of the American spirit and can attest to it, and admire it.

Your work is not finished when you leave the country that you have served. When you return to the United States the third goal begins—helping to make America understand the world. To do that we call on the volunteers to step forward again, again, and again.

The United States should do everything within its power to nurture this unique treasure and to make it grow. It is infectious, and it is wonderfully healing.

On my trip from the airport to the Senate Chamber, I was advised that this legislation has been caught in a leveraging dispute, and it is a dispute in which I participated—the Executive order proposed by the administration to very much narrow those eligible for Federal contract work. That dispute will go on for some time, but I cannot think of a worse piece of legislation to be dragged into the dispute. It should not be ensnared. It should become another demonstration of what Republican and Democrat Presidents said to the Nation in Philadelphia yesterday. I hope the other side would think very carefully about drawing the Volunteer Protection Act, which is an extension of efforts to strengthen the American volunteer, into that dispute.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. COVERDELL. Mr. President, I now send a second cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 543, a bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

Trent Lott, Paul Coverdell, Connie Mack, Slade Gorton, Don Nickles, Spencer Abraham, Larry E. Craig, Michael Enzi, Craig Thomas, Phil Gramm, Dan Coats, Rick Santorum, Mitch McConnell, Orrin Hatch, R. F. Bennett, and Mike DeWine.

Mr. COVERDELL. Mr. President, for the information of all Senators, this cloture vote would occur on Wednesday of this week if cloture is not invoked tomorrow at 2:15. As always, all Senators will be notified as to when they can anticipate this vote on Wednesday, if it is necessary.

MORNING BUSINESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO THE CHEMICAL WEAPONS CONVENTION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT OF THE SENATE—PM 30

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate on April 25, 1997, received a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Senate of the United States:

I am gratified that the United States Senate has given its advice and consent to the ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (the "Convention").