

Suits Put the Squeeze on Volunteers

SUMMARY: Volunteer groups are finding that their liability insurance costs are on the rise — if they are covered at all. The situation has prompted one U.S. lawmaker to introduce a bill encouraging states to limit lawsuits against volunteers — or lose social services grants.



Scout leaders are among the volunteers Porter's bill would protect from lawsuits.

The Junior League of Washington watched the premium for its liability insurance jump from \$400 in 1985 to \$4,000 last year. To cope with that increase, says Janet MacNamara, who heads the league, "We must either raise our costs to our members or take away from the services we provide the community.

"Many smaller groups couldn't afford this," she says. As league president, she also was advised to increase her personal liability coverage — at her own expense.

Unlike their corporate counterparts, many volunteer groups are operating without liability insurance, a recent study by Peat, Marwick, Mitchell & Co. indicates. The accounting firm's survey found, for example, that only 45 percent of the museum directors and 54 percent of the orchestra executives in the country have liability coverage, while more than 90 percent of for-profit business officers are liability protected. Of nonprofit groups with coverage, 58 percent said their most recent policy renewal meant a premium increase of one-half or more.

The plight of Washington's Junior

League, which provides training, volunteers and financial support to various community groups, and other nonprofit organizations has prompted them to unite behind a House bill introduced earlier this month by John Edward Porter of Illinois. The legislation would withhold 1 percent of federal social services block grants from any state failing to extend liability protection to volunteers by the beginning of fiscal 1989. These grants include money for general social service programs, day-care programs and state and local services training.

"Its purpose is to prod the states to pass their own laws of this type," the Republican says of his bill, which has bipartisan support. "A very high proportion of us are volunteers in one way or another.

"Nonprofit public and private groups — town councils, PTAs, credit unions, scout troops, arts programs, food banks and associations — are now facing the prospect of losing irreplaceable contributions of time, skills and dedication of volunteers."

"It's not really a tort reform issue," says one House aide. "There's not a lot of litigation here, but there is a psychological fear

factor" also scaring away some volunteers.

The proposed law would still allow suits against volunteers exercising "willful and wanton misconduct," but they could not be sued for so-called innocent mistakes committed in good faith. The bill is intended to apply only to individuals; nonprofit organizations could still be held liable.

The law's enforcement strategy — withholding federal funds from states failing to comply — has been used before, most notably in legislation denying highway dollars to states not raising their minimum legal drinking age to 21. Porter, who co-sponsored the drinking-age bill, says he is taking the same approach in his volunteer protection bill because "federal funds are expended on useful and cost-effective social service programs which depend heavily on volunteer participation."

Eleven states already have enacted laws to limit the impact of lawsuits on volunteers. "Legislation in this area would be highly welcome," says Marsha Brevard of Volunteer — The National Center, a training clearinghouse for volunteer groups. "Volunteers are such a necessary resource for us today. Any way we can get more people to volunteer, we will work on that."

According to Independent Sector, a Washington-based group for nonprofit organizations, 48 percent of the population over 18 years old engages in volunteer work at some time. Of those surveyed, 62 percent said they gave an average of three or more hours of their time each week.

Porter's aides are optimistic that unlike most attempts at tort reform, the proposed legislation will not be stonewalled by lawyer groups. Lawyers who volunteer to serve on bar association boards, handle cases free of charge and participate in community service projects also are concerned about the threat of lawsuits, the aides point out.

They may be wrong about smooth sailing, however. Alan Parker of the powerful Association of Trial Lawyers of America says that while his group's directors have yet to review the bill, he would be surprised if they support it. "While we certainly want people to volunteer, I don't really believe they are being inhibited by the fear of being sued," he says. "The rhetoric is there but the reality is not. I bet there is no dearth of people volunteering to be Little League managers or Boy Scout leaders."

Parker says of the association's board, which has been an outspoken opponent of tort reform: "I don't believe they would endorse any legislation that restricts a person's right to go to court."

— David Sellers