

(S. B. 2438)

(No. 261)

(Approved September 8, 2004)

AN ACT

To establish the Puerto Rico Volunteer's Act, define its public policy, provide the scope of the law and define rights, benefits and obligations of volunteers and of the entities that employ volunteers.

STATEMENT OF MOTIVES

Satisfying the general interests of a society should not be conceived as the exclusive obligation of the State, but rather as a shared responsibility of the State and civil society. Every citizen always has a social responsibility as a member of the community, regardless of what the social contract delegates upon the State. The State should promote awareness of this responsibility and empower and protect the discharge of said responsibility.

Citizens are continuously and forcefully claiming a more active participation in the solution of the problems that affect them and to the addressing of their own needs. This has caused them to carry out increasingly important roles in the design of strategies and the execution of actions geared to solidarity in a society in which all the members can enjoy a dignified quality of life, whether individually or through entities that are based upon joint efforts and altruism.

A basic manifestation of this social initiative is volunteer work, which may be defined as the recruiting of citizens who, with no interest in obtaining personal profits, wish to devote their energy, abilities, talents and time to the community to achieve adequate and timely answers and solutions for community problems and needs, mainly through shared and combined action

within groups and entities with objectives of a different nature, such as assistance, rehabilitation and development. In other words, collectives that pay special attention to the human aspects of need, directed to make feasible individual possibilities for growth and self-management, or which are centered upon society's transforming action as a whole by means of the generalization of social benefits and structural changes.

In his book "*Solidaridad y Voluntariado*," Joaquín García Roca states, "The culture of participation has been essential for understanding the current development of voluntarism because it incorporated associationism as an expression of personal involvement and revealed that citizens not only have problems, but also solutions; they not only make demands directed outwards from the group, but they also produce answers. Current voluntarism is nourished by those convictions and it grows wherever participation entails territorial decentralization, the revaluation of associationism and the exercise of collective decisions. But, most of all, it emphasizes the endogenous nature of the answers. Volunteers exist because there are citizens who have taken it upon themselves to exercise their right to participate in the life of societies and institutions and in collective processes."

Without a doubt, as a current reality, voluntarism responds to the massive existence of massive social problems that demand a statement from the government offering social initiatives, and from institutional resources with communitarian dynamics. On the other hand, it is characterized by the extending force of solidarities, generating volunteer entities and alliances among said entities.

According to *Estudio de las Organizaciones sin Fines de Lucro en Puerto Rico* (2002), by Estudios Técnicos, Inc., in this Island there are approximately 178,727 persons that perform an average of ten hours per

month of volunteer work for these entities. In financial terms, the estimated annual value of these contributions is \$293 million, based on the average salary of nonprofit organization employees, according to information from the Department of Labor and Human Resources.

In spite of the growth of this volunteer work force, and its enormous social and financial contribution to the Island, there is no legislation to define voluntarism and to declare the public policy of the Island regarding the recognition and development of the various modalities of volunteer action. To this is the purpose of this Act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Title

This Act shall be known as the “Puerto Rico Volunteers Act.”

Section 2.- Declaration of Public Policy

It is the public policy of the Commonwealth of Puerto Rico to recognize, promote, protect and expedite nonprofit solidarity contributions from individuals considered volunteers for the wellbeing of the country, as well as associationism and the establishment of alliances between entities for such purposes.

Section 3.- The Concept of Voluntarism

- a. For the purposes of this Act, volunteerism is understood to be the recruiting of citizens freely and voluntarily to participate in social interest or community activities, with no obligation other than mere civic duty and no remuneration whatsoever, provided said participation exists within the scope of public or private entities. Isolated or sporadic volunteer acts rendered without having anything to do with public or private entities, or for the sake of family, friendship or good Samaritan reasons are hereby excluded.

Voluntarism shall in no case mean the displacement of persons who perform a compensated task or duty in the referred entities with volunteers, nor shall it limit the creation of compensated employment by said entities or represent any sort of obstacles.

Section 4.- Definitions

- a. Social Interest or Community Activities - service, assistance, cultural and educational activities, those that are community-based, community development, for the promotion of causes and any others of similar nature.
- b. Health Facilities - Establishments that are certified and authorized to operate as such by the State, pursuant to the determinations and definitions set forth in Act No. 101 of June 26, 1965, as amended, such as: hospitals, health centers, public health units, diagnostics and treatment centers, public health services, long-term health care facilities, rehabilitation centers, medical facilities for the mentally retarded, mental health centers, psychosocial rehabilitation centers, chronic disease hospitals, general hospitals, mental hospitals, tuberculosis hospitals, and nonprofit health facilities.
- c. Volunteer - An individual that with others, and pursuant to the concept of voluntarism as defined in Section 3 of this Act, renders services to or for the benefit of third parties, freely and voluntarily, without any sort of compensation or material benefit whatsoever.

Section 5.- Scope of Application of the Law

This Act shall be applied to volunteers who render services without compensation within the scope of projects or formal and specific programs directed in whole or in part to addressing social and community interests, as described in Section 4 above, developed by the following types of

organizations:

- a. Nonprofit entities duly registered and active in Puerto Rico and, as such, exempted from the payments of taxes by the Department of the Treasury;
- b. Health Facilities, as defined in Section 4(b). In the case of the specific services rendered within the doctor-patient relationship, there shall be informed express consent from the patient, his/her guardian or tutor regarding such services.
- c. Public bodies, including the municipalities, agencies, dependencies and instrumentalities of the Commonwealth of Puerto Rico.

Section 6.- Volunteerism in Public Service

The municipalities, agencies, dependencies and instrumentalities of the Commonwealth of Puerto Rico are hereby authorized to establish volunteer programs pursuant to the concept of volunteerism defined in Section 3 of this Act.

Section 7.- Inapplicability of Labor Laws

The labor laws of the Commonwealth of Puerto Rico, except as set forth in this Act, shall not be applicable to volunteers because they are not employees.

Section 8.- Per diems, Allowances, and Reimbursement of Expenses

Money appropriated for per diems or allowances for volunteers to defray reasonable food, travel and incidental expenses incurred in the exercise of volunteer tasks or duties, or any reimbursement for such purposes, up to a maximum of one thousand five hundred dollars (\$1,500.00) per year, shall not be considered to be a stipend or compensation pursuant to the fiscal and labor laws of the Commonwealth of Puerto Rico. Reimbursement to a volunteer for supplies or other expenses necessary for the rendering of health

services shall not be considered a stipend or compensation for purposes of this Act.

Section 9.- Extracontractual Liability toward Third Parties

a. Any person who works as a volunteer in a public or private organization shall be held harmless as such from any civil liability regarding any legal action based on his/her acts or omissions which cause any damages to a third party, provided it is proven that:

1) The volunteer was acting within the scope of his/her duties and responsibilities, assigned to him/her as such in the corresponding public or private organization in which he/she rendered services;

2) The damage was not caused deliberately or with malicious intent, nor due to willful or reckless criminal behavior, gross negligence or lack of concern for the rights or safety of the affected person.

b. A public or private organization that employs volunteers for the rendering of its services shall make sure, at the time of assigning the duties and responsibilities to a volunteer, that he/she holds the license or certification required to carry out such duties and responsibilities. A volunteer who makes a false representation in this regard shall lose his/her immunity if such license or certification is necessary to carry out the duties and responsibilities within the scope in which the action or omission that caused damages to a third party occurred.

c. Extracontractual liability toward third parties of any nonprofit organization subject to this Act, of health facilities as defined in Section 4(b), and of public bodies attached to any municipality, agency, dependency or instrumentality of the Commonwealth of

Puerto Rico having a volunteer program included in Section 5(a) of this Act for damages caused by any of its volunteers in the discharge of the duties and responsibilities assigned to him/her shall be determined in accordance with the limitations established for any legal actions and claims against the State in Act No. 104 of June 29, 1955, as amended, known as the Claims and Suits Against the Commonwealth Act.

Section 10.- Compensation for Accidents while Rendering Services

Nonprofit organizations and health facilities included in Section 5(a) and (b) of this Act may, upon payment of the corresponding premium, avail themselves, regarding volunteers, of the benefits set forth in Act No. 45 of April 18, 1935, as amended, known as the Compensation System for Work-Related Accidents Act, which provides protection for persons who work as volunteers in public bodies attached to any municipality, agency, dependency or instrumentality of the Commonwealth of Puerto Rico.

Said premium shall be calculated based on one third of the monthly federal minimum wage, formula to be applied equally for the payment of premiums by persons who serve as volunteers in public bodies attached to any municipality, agency, dependency or instrumentality of the Commonwealth of Puerto Rico.

Section 11.- Accreditation of Work Experience

The hours of service rendered by volunteers pursuant to this Act shall be credited by the municipalities, agencies, dependencies and instrumentalities of the Commonwealth of Puerto Rico in order to comply with the experience requirements for employment in any of the above, pursuant to the regulations to be promulgated to such effects by the Department of Labor and Human Resources as of six (6) months of the effective date of this Act.

To empower the effective application of the referred regulation, it is hereby provided that same shall take effect one year after the effective date of this Act.

Section 12.- Disclosure and Strengthening of Voluntarism; Measuring Indicators

- a. The Department of Economic Development of the Commonwealth of Puerto Rico shall develop a public voluntarism promotion program and promote the establishment of orientation, technical assistance and information services mechanisms which shall include its procedures regarding annual reports to be rendered on the performance of the entrusted duties.
- b. The Department of Economic Development of the Commonwealth of Puerto Rico shall develop measuring indicators of the value of volunteer action per hour to estimate the contribution of volunteers to the Gross National Product of the Island.

Section 13.- Reports Required by Law; Inclusion of Data

The public and private organizations listed in Section 5 of this Act that employ volunteers shall be bound to include in the annual reports to the Governor, the Legislature or the Chief Judge in the case of the first, or in their reports to the Department of State under the Corporations Law of Puerto Rico in the case of the latter, estimates on:

- a. the total number of volunteers and the total amount of service hours;
and
- b. whenever possible, a list of titles used by the organization for the positions available for volunteers.

Section 14.- General Duties of the Organization that Employ Volunteers

The organizations that employ volunteers have a series of general duties

towards the latter by virtue of the volunteer services received, to wit:

- a. To treat them without discrimination, respecting their freedom, dignity and privacy, as well as their beliefs.
- b. To give them due orientation regarding the organization and the duties and responsibilities assigned to them within said organization, and to provide, whenever applicable, the resources and materials needed for them to render their services adequately.
- c. Promote their active participation in the organization pursuant to its statutes and any other applicable rules.
- d. To provide adequate safety and hygiene conditions to them, according to the nature and characteristics of the services they render.
- e. To give them due recognition for the social and moral value of their contributions as volunteers toward the achievement of the goals of the organization.

A written list of such duties shall be delivered by all organizations to their volunteers.

Section 15.- Duties of Volunteers

Persons who agree to render volunteer services within a public or private organization have a series of ethical responsibilities or duties regarding the same, which compliance is indispensable in order to enjoy the benefits provided herein. These are, among others, the following:

- a. To respect the statutes of the organization and comply with its goals, purposes and objectives in the manner that concerns them.
- b. To respect agreements regarding the schedules and hours for rendering services, especially when to do so is essential for the adequate coordination and structuring of the operations of the organization.

- c. To avoid any conflict between personal interests and those of the organization.
- d. To maintain the required confidentiality and discretion with respect to all valid information that comes to their attention as a result of the services rendered as a volunteer.
- e. To make responsible use of all types of resources provided by the organization for the performance of their duties.
- f. To communicate the intention to end an agreement for the rendering of services with sufficient time in advance to avoid affecting the organization or its beneficiaries.
- g. To immediately interrupt all rendering of services on behalf of the organization when it so requires.
- h. To properly use for the purposes allowed any documents of accreditation as volunteers provided to them by the organization.

A written list of these duties shall be delivered by each organization to all its volunteers.

Section 16.- Separability Clause

If any section of this Act, or part thereof, is declared unconstitutional by a competent court, said ruling shall not affect the validity of the remaining provisions.

Section 17.- Effectiveness

This Act shall take effect ninety (90) days after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 261 (S.B. 2438) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to establish the Puerto Rico Volunteer's Act, define its public policy, provide the scope of the law and define rights, benefits and obligations of volunteers and of the entities that employ volunteers,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 17th of November of 2005.

Francisco J. Domenech
Director