

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 17-0779.01 Duane Gall x4335

**SENATE BILL 17-100**

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**SENATE SPONSORSHIP**

**Sonnenberg,**

**HOUSE SPONSORSHIP**

**Landgraf and Arndt,**

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**Senate Committees**

Agriculture, Natural Resources, & Energy

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING QUALIFIED IMMUNITY FOR PERSONS PERFORMING LAND**  
102 **STEWARDSHIP ACTIVITIES ON PUBLIC LANDS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill strengthens existing legal protections under the federal "Volunteer Protection Act of 1997" and Colorado's "Volunteer Service Act" for individual volunteers and nonprofit entities who build or maintain recreational trails and related facilities pursuant to grants received under Colorado's "Recreational Trails System Act of 1971". Specifically, the bill:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 14, 2017

SENATE  
Amended 2nd Reading  
February 13, 2017

- ! Establishes either gross negligence or willful and wanton conduct as the minimum basis for liability, depending on whether the subject is an individual volunteer, a nonprofit entity, or a director, officer, or trustee of a nonprofit entity;
- ! Prohibits a grant agreement or procurement contract from requiring a nonprofit entity or volunteer to obtain insurance coverage for liability arising from completed operations; and
- ! Extends qualified immunity to a volunteer who operates a motor vehicle, including an off-highway vehicle or snowmobile, as part of a land stewardship activity.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, 33-11-103, **amend**  
3 the introductory portion; and **add** (1.4), (1.6), (4.5), (8), and (9) as  
4 follows:

5           **33-11-103. Definitions.** As used in this ~~article~~ ARTICLE 11, unless  
6 the context otherwise requires:

7           (1.4) "GRANT" MEANS AN AWARD OF MONEY FROM ANY PUBLIC OR  
8 PRIVATE SOURCE, ALLOCATED IN ACCORDANCE WITH THE "PROCUREMENT  
9 CODE", ARTICLES 101 TO 112 OF TITLE 24, TO FURTHER ONE OR MORE OF  
10 THE PURPOSES ENUMERATED IN SECTION 33-11-102.

11           (1.6) "LAND STEWARDSHIP" MEANS THE DESIGN, ACQUISITION,  
12 CONSTRUCTION, EXPANSION, IMPROVEMENT, MAINTENANCE, OR  
13 OPERATION OF:

14           (a) A RECREATIONAL TRAIL, RECREATIONAL ROUTE, OR TRAIL  
15 CORRIDOR; OR

16           (b) ANY STRUCTURE OR FACILITY THAT IS PART OF, OR ASSOCIATED  
17 WITH THE PUBLIC USE AND ENJOYMENT OF, A RECREATIONAL TRAIL OR  
18 TRAIL CORRIDOR.

19           (4.5) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION

1 THAT:

2 (a) HAS FILED ARTICLES OF INCORPORATION IN COLORADO AS A  
3 NONPROFIT CORPORATION AND IS CURRENTLY IN GOOD STANDING, AS  
4 EVIDENCED BY RECORDS OF THE COLORADO SECRETARY OF STATE;

5 (b) IS ORGANIZED AND CONDUCTED FOR PUBLIC BENEFIT AND  
6 OPERATED \_\_\_\_\_ FOR CHARITABLE, CIVIC, EDUCATIONAL, RELIGIOUS,  
7 WELFARE, OR HEALTH PURPOSES AND DOES NOT PRACTICE ANY ACTION  
8 THAT CONSTITUTES A HATE CRIME UNDER STATE OR FEDERAL LAW; AND

9 (c) PERFORMS LAND STEWARDSHIP AS A RECIPIENT OF A GRANT.

10 (8) "VEHICLE" MEANS:

11 (a) A MOTORCYCLE, TRAILER, UTILITY TRAILER, OR MULTIPURPOSE  
12 TRAILER, ALL AS DEFINED IN SECTION 42-1-102; AND

13 (b) ANY SELF-PROPELLED VEHICLE THAT IS DESIGNED TO TRAVEL  
14 ON WHEELS OR TRACKS IN CONTACT WITH THE GROUND, THAT IS DESIGNED  
15 PRIMARILY FOR USE OFF OF THE PUBLIC HIGHWAYS, AND THAT IS  
16 GENERALLY AND COMMONLY USED TO TRANSPORT PERSONS FOR  
17 RECREATIONAL PURPOSES.

18 (9)(a) "VOLUNTEER" MEANS A PERSON PERFORMING SERVICES FOR  
19 A NONPROFIT ORGANIZATION WITHOUT COMPENSATION OTHER THAN  
20 REIMBURSEMENT FOR ACTUAL EXPENSES INCURRED.

21 (b) "VOLUNTEER" INCLUDES A PERSON WHO SERVES WITHOUT  
22 COMPENSATION AS A DIRECTOR, OFFICER, OR TRUSTEE OF A NONPROFIT  
23 ORGANIZATION. FOR PURPOSES OF THIS ARTICLE 11, A PERSON SERVING AS  
24 A DIRECTOR, OFFICER, OR TRUSTEE SHALL NOT BE CONSIDERED  
25 COMPENSATED SOLELY BY REASON OF:

26 (I) THE PAYMENT OF THE PERSON'S ACTUAL EXPENSES INCURRED  
27 IN ATTENDING MEETINGS OR IN EXECUTING THE DUTIES OF THE OFFICE;

1 (II) THE RECEIPT OF MEALS AT MEETINGS; OR

2 (III) THE RECEIPT OF GIFTS UP TO A TOTAL VALUE OF ONE  
3 THOUSAND DOLLARS IN ANY TWELVE CONSECUTIVE MONTHS.

4 **SECTION 2.** In Colorado Revised Statutes, **add** 33-11-113 as  
5 follows:

6 **33-11-113. Volunteer activities - qualified immunity - grant**  
7 **agreements for land stewardship activities - terms - insurance**  
8 **coverage - legislative declaration - scope of section.** (1) (a) THE  
9 GENERAL ASSEMBLY DECLARES THAT THE PURPOSE OF THIS SECTION IS TO  
10 PROVIDE ADDITIONAL PROTECTION, IN ACCORDANCE WITH 42 U.S.C. SEC.  
11 14502 (a), TO VOLUNTEERS AND NONPROFIT ORGANIZATIONS PROVIDING  
12 LAND STEWARDSHIP SERVICES UNDER THIS ARTICLE 11. IN CASE OF ANY  
13 CONFLICT BETWEEN THIS SECTION AND SECTION 13-21-115.5 OR  
14 13-21-115.7, OR BETWEEN THIS SECTION AND THE FEDERAL "VOLUNTEER  
15 PROTECTION ACT OF 1997", 42 U.S.C. SEC. 14501 ET SEQ., THIS SECTION  
16 CONTROLS.

17 (b) THIS SECTION DOES NOT APPLY TO LAND STEWARDSHIP  
18 ACTIVITIES OCCURRING ON STATE LANDS.

19 (2) (a) A VOLUNTEER PERFORMING LAND STEWARDSHIP SERVICES  
20 IN CONNECTION WITH A GRANT IS IMMUNE FROM CIVIL LIABILITY FOR ANY  
21 ACT OR OMISSION THAT RESULTS IN DAMAGE OR INJURY IF THE VOLUNTEER  
22 WAS ACTING WITHIN THE SCOPE OF HIS OR HER DESIGNATED DUTIES  
23 UNLESS THE DAMAGE OR INJURY WAS CAUSED BY THE VOLUNTEER'S GROSS  
24 NEGLIGENCE OR WILLFUL AND WANTON ACT OR OMISSION.

25 (b) A VOLUNTEER SERVING AS AN OFFICER, DIRECTOR, OR TRUSTEE  
26 OF A NONPROFIT ORGANIZATION PERFORMING LAND STEWARDSHIP  
27 SERVICES IN CONNECTION WITH A GRANT IS IMMUNE FROM CIVIL LIABILITY

1 FOR ANY ACT OR OMISSION THAT RESULTS IN DAMAGE OR INJURY IF THE  
2 VOLUNTEER WAS ACTING WITHIN THE SCOPE OF HIS OR HER OFFICIAL  
3 FUNCTIONS AND DUTIES AS A DIRECTOR, OFFICER, OR TRUSTEE UNLESS THE  
4 DAMAGE OR INJURY WAS CAUSED BY A WILLFUL AND WANTON ACT OR  
5 OMISSION OF THE DIRECTOR, OFFICER, OR TRUSTEE.

6 (c) A NONPROFIT ORGANIZATION PERFORMING LAND STEWARDSHIP  
7 SERVICES IN CONNECTION WITH A GRANT IS IMMUNE FROM CIVIL LIABILITY  
8 FOR ANY ACT OR OMISSION THAT RESULTS IN DAMAGE OR INJURY UNLESS  
9 THE DAMAGE OR INJURY WAS CAUSED BY THE NONPROFIT ORGANIZATION'S  
10 WILLFUL AND WANTON ACT OR OMISSION.

11 (3) NOTHING IN THIS SECTION ESTABLISHES, DIMINISHES, OR  
12 ABROGATES ANY DUTY THAT A DIRECTOR, OFFICER, OR TRUSTEE OF A  
13 NONPROFIT ORGANIZATION HAS TO THE NONPROFIT ORGANIZATION FOR  
14 WHICH THE DIRECTOR, OFFICER, OR TRUSTEE SERVES.

15 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GRANT  
16 AGREEMENT, PROCUREMENT CONTRACT, OR OTHER AGREEMENT  
17 GOVERNING THE CONDUCT OF LAND STEWARDSHIP ACTIVITIES BY A  
18 NONPROFIT ORGANIZATION OR VOLUNTEER IN CONNECTION WITH A GRANT  
19 MUST NOT:

20 (a) DIFFERENTIATE BETWEEN "CONSTRUCTION" AND  
21 "MAINTENANCE", OR WORDS OF SIMILAR IMPORT, FOR LIABILITY PURPOSES;  
22 OR

23 (b) REQUIRE THE NONPROFIT ORGANIZATION OR ANY VOLUNTEER  
24 TO PURCHASE OR MAINTAIN WHAT IS OR WAS, AS OF JANUARY 1, 2017,  
25 COMMONLY KNOWN AS COMPLETED OPERATIONS LIABILITY COVERAGE OR  
26 THE SUBSTANTIAL EQUIVALENT OF COMPLETED OPERATIONS LIABILITY  
27 COVERAGE, HOWEVER DESIGNATED.

1           (5) (a) (I) THE IMMUNITY GRANTED BY SUBSECTIONS (2)(a) AND  
2           (2)(b) OF THIS SECTION DOES NOT EXTEND TO ANY ACT OR OMISSION BY A  
3           VOLUNTEER WHILE OPERATING A VEHICLE UNLESS THE OPERATION OF THE  
4           VEHICLE IS AN INTEGRAL PART OF, AND PHYSICALLY PROXIMATE TO, A  
5           LAND STEWARDSHIP ACTIVITY AND WITHIN THE SCOPE OF THE  
6           VOLUNTEER'S DESIGNATED DUTIES IN CONNECTION WITH THAT ACTIVITY.

7           (II) NOTWITHSTANDING SUBSECTION (2)(a) OR (2)(b) OF THIS  
8           SECTION, A PLAINTIFF MAY SUE AND RECOVER CIVIL DAMAGES FROM A  
9           VOLUNTEER BASED UPON A NEGLIGENT ACT OR OMISSION INVOLVING THE  
10          OPERATION OF A MOTOR VEHICLE DURING A LAND STEWARDSHIP ACTIVITY;  
11          EXCEPT THAT THE AMOUNT RECOVERED FROM THE VOLUNTEER SHALL NOT  
12          EXCEED THE LIMITS OF APPLICABLE INSURANCE COVERAGE MAINTAINED  
13          BY OR ON BEHALF OF THE VOLUNTEER WITH RESPECT TO THE NEGLIGENT  
14          OPERATION OF A MOTOR VEHICLE IN SUCH CIRCUMSTANCES. NOTHING IN  
15          THIS SUBSECTION (5)(a)(II) LIMITS THE RIGHT OF A PLAINTIFF TO RECOVER  
16          FROM A POLICY OF UNINSURED OR UNDERINSURED MOTORIST COVERAGE  
17          AVAILABLE TO THE PLAINTIFF AS A RESULT OF A MOTOR VEHICLE  
18          ACCIDENT.

19          (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A GRANT  
20          AGREEMENT, PROCUREMENT CONTRACT, OR OTHER AGREEMENT  
21          GOVERNING THE CONDUCT OF LAND STEWARDSHIP ACTIVITIES BY A  
22          NONPROFIT ORGANIZATION OR VOLUNTEER IN CONNECTION WITH A GRANT  
23          MUST NOT REQUIRE THE NONPROFIT ORGANIZATION OR ANY VOLUNTEER  
24          TO PURCHASE OR MAINTAIN LIABILITY COVERAGE FOR OPERATION OF A  
25          VEHICLE OTHER THAN A COMPLYING POLICY OF INSURANCE AS REQUIRED  
26          BY COLORADO LAW, OTHER THAN THIS ARTICLE 11, FOR LAWFUL  
27          OPERATION OF THE VEHICLE IN COLORADO.

1           **SECTION 3. Act subject to petition - effective date.** This act  
2 takes effect at 12:01 a.m. on the day following the expiration of the  
3 ninety-day period after final adjournment of the general assembly (August  
4 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
5 referendum petition is filed pursuant to section 1 (3) of article V of the  
6 state constitution against this act or an item, section, or part of this act  
7 within such period, then the act, item, section, or part will not take effect  
8 unless approved by the people at the general election to be held in  
9 November 2018 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.