

BENJAMIN T. BRICKNER

TESTIMONY OF BENJAMIN BRICKNER TO THE VERMONT SENATE COMMITTEE ON JUDICIARY ON SENATE BILL 151, THE VERMONT VOLUNTEER PROTECTION ACT

Good morning, and thank you for the opportunity to testify on Senate bill 151, the Vermont Volunteer Protection Act.

My name is Benjamin Brickner. I'm a Pomfret resident, attorney, and local government official. I am also a recent board member of a childcare center in Woodstock.

For transparency: I am not a defendant in any pending litigation, and my government service includes a stipend that, while modest, exceeds the de minimis threshold in S.151. I would not benefit from this bill personally. But my observation of others' experience has convinced me there is a gap in Vermont's civil court procedure, a gap this legislation is intended to address.

Individual volunteers too often are named as defendants in lawsuits – not because of their conduct, but to gain settlement leverage over the organizations they serve. In many cases these are our friends and neighbors who stepped up – to rake playground mulch or organize bake sales, not to fend off strategic litigation.

While many nonprofits and governments carry insurance, coverage is not universal and addresses only financial costs. Insured volunteers still face substantial reputational, emotional and other risks. Several acquaintances who have been named in or threatened with lawsuits due to their volunteer work have confided they will never serve on another nonprofit or local board – not for lack of commitment, but for fear of the consequences. What struck me most was that none had even known to ask about insurance coverage before committing to serve.

This is a solvable problem. Vermont protects speech from meritless claims through its existing law discouraging strategic lawsuits against public participation (SLAPP suits). But it doesn't protect our essential volunteers from the same type of bad faith litigation. This led me to work with my hometown senator – Alison Clarkson – to develop S.151.

Because why should Vermont volunteers stand alone? They do indispensable work in their communities. Inherent in volunteerism is a freedom to associate with organizations aligned with our values, and the freedom to express ourselves through that association. When litigation chills the willingness to serve, we lose not just volunteers, but institutions and freedoms that define us.

S.151 is simple. It is modeled directly on Vermont's anti-SLAPP statute (12 V.S.A. § 1041), aligned with the federal Volunteer Protection Act of 1997, and drafted with assistance of your legislative counsel. It extends to volunteers the same protection now enjoyed by public speakers. A defendant

sued for their volunteer work can file a motion to strike meritless claims quickly, thereby avoiding the burden of full litigation. If the defendant prevails, the court may award reasonable attorney's fees and costs.

That's it. This is not immunity. It's simply a procedural mechanism to protect well-meaning volunteers and discourage weaponization of our legal system. The courthouse door remains wide open to litigants with colorable claims. Meanwhile, those without merit can be quickly resolved so that volunteers may serve our communities without reservation.

The bill includes other guardrails that mirror Vermont's anti-SLAPP law. The motion to strike is not available to defendants who are reckless, grossly negligent, or intentional in their misconduct. Criminal charges are also excluded.

Why does this matter? Because volunteerism in Vermont is not optional – it is fundamental to who we are. Nonprofits, local boards, and social service organizations all depend on volunteers to carry out their missions. Let's show them Vermont has their back.

I urge you to favorably report this bill and I welcome any questions you may have.

Thank you.