

By: Representative Perry

To: Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1147

1 AN ACT TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO  
2 ALLOW FOSTER PARENTS TO BE COVERED UNDER THE TORT CLAIMS ACT; TO  
3 CREATE STANDARDS FOR SUCH FOSTER PARENTS; AND FOR RELATED  
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 11-46-1, Mississippi Code of 1972, is  
7 amended as follows:

8 11-46-1. As used in this chapter the following terms shall  
9 have the meanings herein ascribed unless the context otherwise  
10 requires:

11 (a) "Claim" means any demand to recover damages from a  
12 governmental entity as compensation for injuries.

13 (b) "Claimant" means any person seeking compensation  
14 under the provisions of this chapter, whether by administrative  
15 remedy or through the courts.

16 (c) "Board" means the Mississippi Tort Claims Board.

17 (d) "Department" means the Department of Finance and  
18 Administration.

19 (e) "Director" means the executive director of the  
20 department who is also the executive director of the board.

21 (f) "Employee" means any officer, employee or servant  
22 of the State of Mississippi or a political subdivision of the  
23 state, including elected or appointed officials and persons acting  
24 on behalf of the state or a political subdivision in any official  
25 capacity, temporarily or permanently, in the service of the state  
26 or a political subdivision whether with or without compensation.  
27 The term "employee" shall not mean a person or other legal entity

28 while acting in the capacity of an independent contractor under  
29 contract to the state or a political subdivision; provided,  
30 however, that for purposes of the limits of liability provided for  
31 in Section 11-46-15, the term "employee" shall include physicians  
32 under contract to provide health services with the State Board of  
33 Health, the State Board of Mental Health or any county or  
34 municipal jail facility while rendering services under such  
35 contract. The term "employee" shall also include Mississippi  
36 Department of Human Services licensed foster parents for the  
37 limited purposes of coverage under the Tort Claims Act as provided  
38 in Section 11-46-8.

39 (g) "Governmental entity" means and includes the state  
40 and political subdivisions as herein defined.

41 (h) "Injury" means death, injury to a person, damage to  
42 or loss of property or any other injury that a person may suffer  
43 that is actionable at law or in equity.

44 (i) "Political subdivision" means any body politic or  
45 body corporate other than the state responsible for governmental  
46 activities only in geographic areas smaller than that of the  
47 state, including but not limited to any county, municipality,  
48 school district, community hospital as defined in Section  
49 41-13-10, Mississippi Code of 1972, airport authority or other  
50 instrumentality thereof, whether or not such body or  
51 instrumentality thereof has the authority to levy taxes or to sue  
52 or be sued in its own name.

53 (j) "State" means the State of Mississippi and any  
54 office, department, agency, division, bureau, commission, board,  
55 institution, hospital, college, university, airport authority or  
56 other instrumentality thereof, whether or not such body or  
57 instrumentality thereof has the authority to levy taxes or to sue  
58 or be sued in its own name.

59 (k) "Law" means all species of law including but not  
60 limited to any and all constitutions, statutes, case law, common  
61 law, customary law, court order, court rule, court decision, court  
62 opinion, court judgment or mandate, administrative rule or  
63 regulation, executive order, or principle or rule of equity.

64 SECTION 2. Mississippi Department of Human Services licensed

65 foster parents shall be covered under this chapter for actions  
66 taken in their capacity as required by the Department of Human  
67 Services licensing standards only for claims made by third parties  
68 and only as to the adequate care and supervision of foster  
69 children in their care. Nothing in this section shall be  
70 construed to extend immunity to foster parents who violate  
71 Department of Human Services licensing standards or the law.

72 SECTION 3. Section 2 of this act shall be codified as  
73 Section 11-46-8, Mississippi Code of 1972.

74 SECTION 4. This act shall take effect and be in force from  
75 and after July 1, 1999.