

By: Representative Perry

To: Judiciary A

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; AND  
3 FOR RELATED PURPOSES.

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

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

7 11-46-1. As used in this chapter the following terms shall  
8 have the meanings herein ascribed unless the context otherwise  
9 requires:

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

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

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

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

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

20 (f) "Employee" means any officer, employee or servant  
21 of the State of Mississippi or a political subdivision of the  
22 state, including elected or appointed officials and persons acting  
23 on behalf of the state or a political subdivision in any official  
24 capacity, temporarily or permanently, in the service of the state  
25 or a political subdivision whether with or without compensation.

26 The term "employee" shall not mean a person or other legal entity

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

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

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

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

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

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

63 SECTION 2. This act shall take effect and be in force from

64 and after July 1, 1999.