

By: Representative Perry

To: Judiciary A

HOUSE BILL NO. 1147
(As Sent to Governor)

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 claims made
66 by parties other than the foster child which are based on
67 inadequate supervision or inadequate care of the foster child on
68 the part of the foster parent.

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

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