

By: Representatives Dedeaux, Dickson, Ishee, Masterson, Reynolds, Rushing, Peranich To: Judiciary A

HOUSE BILL NO. 1272

1 AN ACT TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CERTAIN EMERGENCY ROOM PHYSICIANS IN THE DEFINITION OF
3 EMPLOYEE; AND 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 any physician,
35 dentist or other health care practitioner employed by the
36 University of Mississippi Medical Center (UMMC) and its
37 departmental practice plans who is a faculty member and provides
38 health care services only for patients at UMMC or its affiliated
39 practice sites. The term "employee" shall also include any
40 physician, dentist or other health care practitioner employed by
41 any university under the control of the Board of Trustees of State
42 Institutions of Higher Learning who practices only on the campus
43 of any university under the control of the Board of Trustees of
44 State Institutions of Higher Learning. The term "employee" shall
45 also include any physician, dentist or other health care
46 practitioner employed by the State Veterans Affairs Board and who
47 provides health care services for patients for the State Veterans
48 Affairs Board. The term "employee" shall also include Mississippi
49 Department of Human Services licensed foster parents for the
50 limited purposes of coverage under the Tort Claims Act as provided
51 in Section 11-46-8. The term "employee" may also include any
52 physician providing emergency room physician services under
53 contract with any county or municipal hospital but only such
54 services provided in the course and scope of employment with the
55 hospital in emergency room services.

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

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



61 (i) "Political subdivision" means any body politic or
62 body corporate other than the state responsible for governmental
63 activities only in geographic areas smaller than that of the
64 state, including, but not limited to, any county, municipality,
65 school district, community hospital as defined in Section
66 41-13-10, Mississippi Code of 1972, airport authority or other
67 instrumentality thereof, whether or not such body or
68 instrumentality thereof has the authority to levy taxes or to sue
69 or be sued in its own name.

70 (j) "State" means the State of Mississippi and any
71 office, department, agency, division, bureau, commission, board,
72 institution, hospital, college, university, airport authority or
73 other instrumentality thereof, whether or not such body or
74 instrumentality thereof has the authority to levy taxes or to sue
75 or be sued in its own name.

76 (k) "Law" means all species of law including, but not
77 limited to, any and all constitutions, statutes, case law, common
78 law, customary law, court order, court rule, court decision, court
79 opinion, court judgment or mandate, administrative rule or
80 regulation, executive order, or principle or rule of equity.

81 **SECTION 2.** This act shall take effect and be in force from
82 and after July 1, 2003.

