

By: Representative Eure

To: Judiciary A

HOUSE BILL NO. 757

1 AN ACT TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE A FEDERAL LAW ENFORCEMENT OFFICER IN THE DEFINITION OF
3 EMPLOYEE FOR THE PROVISIONS OF LAW REGULATING THE STATE TORT
4 CLAIMS ACT; AND FOR RELATED 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 ascribed unless the context otherwise 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 including firefighters who are members of a volunteer fire
27 department that is a political subdivision. The term "employee"
28 shall not mean a person or other legal entity while acting in the
29 capacity of an independent contractor under contract to the state
30 or a political subdivision; and

31 (i) For purposes of the limits of liability
32 provided for in Section 11-46-15, the term "employee" shall
33 include:

34 1. Physicians under contract to provide
35 health services with the State Board of Health, the State Board of
36 Mental Health or any county or municipal jail facility while
37 rendering services under the contract;

38 2. Any physician, dentist or other health
39 care practitioner employed by the University of Mississippi
40 Medical Center (UMMC) and its departmental practice plans who is a
41 faculty member and provides health care services only for patients
42 at UMMC or its affiliated practice sites, including any physician
43 or other health care practitioner employed by UMMC under an
44 arrangement with a public or private health-related organization;



45 3. Any physician, dentist or other health
46 care practitioner employed by any university under the control of
47 the Board of Trustees of State Institutions of Higher Learning who
48 practices only on the campus of any university under the control
49 of the Board of Trustees of State Institutions of Higher Learning;

50 4. Any physician, dentist or other health
51 care practitioner employed by the State Veterans Affairs Board and
52 who provides health care services for patients for the State
53 Veterans Affairs Board;

54 (ii) The term "employee" shall also include
55 Mississippi Department of Human Services licensed foster parents
56 for the limited purposes of coverage under the Tort Claims Act as
57 provided in Section 11-46-8; and

58 (iii) The term "employee" also shall include any
59 employee or member of the governing board of a charter school but
60 shall not include any person or entity acting in the capacity of
61 an independent contractor to provide goods or services under a
62 contract with a charter school * * *; and

63 (iv) The term "employee" also shall include any
64 federal law enforcement officer while acting within the course and
65 scope of his or her employment as a law enforcement officer. Any
66 federal law enforcement officer acting outside the course and
67 scope of his or her employment as a law enforcement officer shall
68 not be considered an "employee" for the purposes of this act.



69 (g) "Governmental entity" means the state and political
70 subdivisions.

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

74 (i) "Political subdivision" means any body politic or
75 body corporate other than the state responsible for governmental
76 activities only in geographic areas smaller than that of the
77 state, including, but not limited to, any county, municipality,
78 school district, charter school, volunteer fire department that is
79 a chartered nonprofit corporation providing emergency services
80 under contract with a county or municipality, community hospital
81 as defined in Section 41-13-10, airport authority, or other
82 instrumentality of the state, whether or not the body or
83 instrumentality has the authority to levy taxes or to sue or be
84 sued in its own name.

85 (j) "State" means the State of Mississippi and any
86 office, department, agency, division, bureau, commission, board,
87 institution, hospital, college, university, airport authority or
88 other instrumentality thereof, whether or not the body or
89 instrumentality has the authority to levy taxes or to sue or be
90 sued in its own name.

91 (k) "Law" means all species of law, including, but not
92 limited to, any and all constitutions, statutes, case law, common
93 law, customary law, court order, court rule, court decision, court



94 opinion, court judgment or mandate, administrative rule or
95 regulation, executive order, or principle or rule of equity.

96 **SECTION 2.** This act shall take effect and be in force from
97 and after July 1, 2018.

