

By: Representative Masterson

To: Judiciary A

HOUSE BILL NO. 1556

1 AN ACT TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE MEDICAID PHYSICIANS IN THE DEFINITION OF EMPLOYEE IN THE
3 TORT CLAIMS ACT; TO AMEND SECTION 11-46-15, MISSISSIPPI CODE OF
4 1972, TO LIMIT DAMAGES AGAINST MEDICAID PHYSICIANS TO \$250,000.00;
5 AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

60 (k) "Law" means all species of law including but not
61 limited to any and all constitutions, statutes, case law, common



62 law, customary law, court order, court rule, court decision, court
63 opinion, court judgment or mandate, administrative rule or
64 regulation, executive order, or principle or rule of equity.

65 **SECTION 2.** Section 11-46-15, Mississippi Code of 1972, is
66 amended as follows:

67 11-46-15. (1) In any claim or suit for damages against a
68 governmental entity or its employee brought under the provisions
69 of this chapter, the liability shall not exceed the following for
70 all claims arising out of a single occurrence for all damages
71 permitted under this chapter:

72 (a) For claims or causes of action arising from acts or
73 omissions occurring on or after July 1, 1993, but before July 1,
74 1997, the sum of Fifty Thousand Dollars (\$50,000.00);

75 (b) For claims or causes of action arising from acts or
76 omissions occurring on or after July 1, 1997, but before July 1,
77 2001, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00);

78 (c) For claims or causes of action arising from acts or
79 omissions occurring on or after July 1, 2001, the sum of Five
80 Hundred Thousand Dollars (\$500,000.00) except claims involving
81 Medicaid physicians which shall be the sum of Two Hundred Fifty
82 Thousand Dollars (\$250,000.00).

83 (2) No judgment against a governmental entity or its
84 employee for any act or omission for which immunity is waived
85 under this chapter shall include an award for exemplary or
86 punitive damages or for interest prior to judgment, or an award of
87 attorney's fees unless attorney's fees are specifically authorized
88 by law.

89 (3) Except as otherwise provided in Section 11-46-17(4), in
90 any suit brought under the provisions of this chapter, if the
91 verdict which is returned, when added to costs and any attorney's
92 fees authorized by law, would exceed the maximum dollar amount of
93 liability provided in subsection (1) of this section, the court
94 shall reduce the verdict accordingly and enter judgment in an



95 amount not to exceed the maximum dollar amount of liability
96 provided in subsection (1) of this section.

97 **SECTION 3.** This act shall take effect and be in force from
98 and after its passage.

