

By: Senator(s) Michel

To: Judiciary, Division A

SENATE BILL NO. 2165

1 AN ACT TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE IMMUNITY UNDER THE TORT CLAIMS ACT TO PHYSICIANS WHO
3 PROVIDE MEDICAL SERVICES TO MEDICAID RECIPIENTS; 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 any physician,
36 dentist or other health care practitioner employed by the
37 University of Mississippi Medical Center (UMMC) and its
38 departmental practice plans who is a faculty member and provides
39 health care services only for patients at UMMC or its affiliated
40 practice sites. The term "employee" shall also include any
41 physician, dentist or other health care practitioner employed by
42 any university under the control of the Board of Trustees of State
43 Institutions of Higher Learning who practices only on the campus
44 of any university under the control of the Board of Trustees of
45 State Institutions of Higher Learning. The term "employee" shall
46 also include any physician, dentist or other health care
47 practitioner employed by the State Veterans Affairs Board and who
48 provides health care services for patients for the State Veterans
49 Affairs Board. The term "employee" shall also include physicians
50 while rendering services to a patient who is eligible for health
51 care services under the provisions of Title 43, Chapter 13,
52 Article 3, Mississippi Code of 1972. The term "employee" shall
53 also include Mississippi Department of Human Services licensed
54 foster parents for the limited purposes of coverage under the Tort
55 Claims Act as provided in Section 11-46-8.

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, 2005.