

By: Senator(s) Michel

To: Judiciary, Division A

## SENATE BILL NO. 2168

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

contract to the state or a political subdivision; provided,  
however, that for purposes of the limits of liability provided for  
in Section 11-46-15, the term "employee" shall include physicians  
under contract to provide health services with the State Board of  
Health, the State Board of Mental Health or any county or  
municipal jail facility while rendering services under such  
contract. The term "employee" shall also include any physician,  
dentist or other health care practitioner employed by the  
University of Mississippi Medical Center (UMMC) and its  
departmental practice plans who is a faculty member and provides  
health care services only for patients at UMMC or its affiliated  
practice sites. The term "employee" shall also include any  
physician, dentist or other health care practitioner employed by  
any university under the control of the Board of Trustees of State  
Institutions of Higher Learning who practices only on the campus  
of any university under the control of the Board of Trustees of  
State Institutions of Higher Learning. The term "employee" shall  
also include any physician, dentist or other health care  
practitioner employed by the State Veterans Affairs Board and who  
provides health care services for patients for the State Veterans  
Affairs Board. The term "employee" shall also include physicians  
while rendering services to a patient who is eligible for health  
care services under the provisions of Title 43, Chapter 13,  
Article 3. The term "employee" shall also include Mississippi  
Department of Human Services licensed foster parents for the  
limited purposes of coverage under the Tort Claims Act as provided  
in Section 11-46-8.

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

(h) "Injury" means death, injury to a person, damage to  
or loss of property or any other injury that a person may suffer  
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, \* \* \* airport authority or other instrumentality  
67 thereof, whether or not such body or instrumentality thereof has  
68 the authority to levy taxes or to sue or be sued in its own name.

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

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

80       **SECTION 2.** This act shall take effect and be in force from  
81 and after July 1, 2006.