

HOUSE BILL No. 2509

By Committee on Appropriations

2-15

AN ACT concerning the Kansas tort claims act; relating to the Kansas guardianship program; amending K.S.A. 2000 Supp. 75-6102 and repealing the existing section; also repealing K.S.A. 2000 Supp. 75-6102a.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 75-6102 is hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) "Employee" means any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider. Employee includes any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor, but does not otherwise include any independent contractor under contract with a governmental entity except (1) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections, (2) *a person who contracts with the Kansas guardianship program to provide services as a court-appointed guardian or conservator*, (3) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope

1 of their employment through a liability insurance contract of such inde-
2 pendent contractor; and ~~(3)~~ (4) a person who is an employee or volunteer
3 of a nonprofit program, other than a municipality, who has contracted
4 with the commissioner of juvenile justice or with another nonprofit pro-
5 gram that has contracted with the commissioner of juvenile justice to
6 provide a juvenile justice program for juvenile offenders in a judicial dis-
7 trict provided that such employee or volunteer does not otherwise have
8 coverage for such acts and omissions within the scope of their employ-
9 ment or volunteer activities through a liability insurance contract of such
10 nonprofit program. "Employee" also includes an employee of an indigent
11 health care clinic. "Employee" also includes former employees for acts
12 and omissions within the scope of their employment during their former
13 employment with the governmental entity.

14 (e) "Community service work" means public or community service
15 performed by a person (1) as a result of a contract of diversion entered
16 into by such person as authorized by law, (2) pursuant to the assignment
17 of such person by a court to a community corrections program, (3) as a
18 result of suspension of sentence or as a condition of probation pursuant
19 to court order, (4) in lieu of a fine imposed by court order or (5) as a
20 condition of placement ordered by a court pursuant to K.S.A. 38-1663,
21 and amendments thereto.

22 (f) "Charitable health care provider" means a person licensed by the
23 state board of healing arts as an exempt licensee or a federally active
24 licensee, a person issued a limited permit by the state board of healing
25 arts, a ~~physician's~~ *physician* assistant ~~registered~~ *licensed* by the state board
26 of healing arts or a health care provider as the term "health care provider"
27 is defined under K.S.A. 65-4921, and amendments thereto, who has en-
28 tered into an agreement with:

29 (1) The secretary of health and environment under K.S.A. 75-6120,
30 and amendments thereto, who, pursuant to such agreement, gratuitously
31 renders professional services to a person who has provided information
32 which would reasonably lead the health care provider to make the good
33 faith assumption that such person meets the definition of medically in-
34 digent person as defined by this section or to a person receiving medical
35 assistance from the programs operated by the department of social and
36 rehabilitation services, and who is considered an employee of the state of
37 Kansas under K.S.A. 75-6120, and amendments thereto;

38 (2) the secretary of health and environment and who, pursuant to
39 such agreement, gratuitously renders professional services in conducting
40 children's immunization programs administered by the secretary; or

41 (3) a local health department or indigent health care clinic, which
42 renders professional services to medically indigent persons or persons
43 receiving medical assistance from the programs operated by the depart-

1 ment of social and rehabilitation services gratuitously or for a fee paid by
2 the local health department or indigent health care clinic to such provider
3 and who is considered an employee of the state of Kansas under K.S.A.
4 75-6120 and amendments thereto. Professional services rendered by a
5 provider under this paragraph (3) shall be considered gratuitous notwith-
6 standing fees based on income eligibility guidelines charged by a local
7 health department or indigent health care clinic and notwithstanding any
8 fee paid by the local health department or indigent health care clinic to
9 a provider in accordance with this paragraph (3).

10 (g) "Medically indigent person" means a person who lacks resources
11 to pay for medically necessary health care services and who meets the
12 eligibility criteria for qualification as a medically indigent person estab-
13 lished by the secretary of health and environment under K.S.A. 75-6120,
14 and amendments thereto.

15 (h) "Indigent health care clinic" means an outpatient medical care
16 clinic operated on a not-for-profit basis which has a contractual agreement
17 in effect with the secretary of health and environment to provide health
18 care services to medically indigent persons.

19 (i) "Local health department" shall have the meaning ascribed to such
20 term under K.S.A. 65-241 and amendments thereto.

21 Sec. 2. K.S.A. 2000 Supp. 75-6102 and 75-6102a are hereby
22 repealed.

23 Sec. 3. This act shall take effect and be in force from and after its
24 publication in the Kansas register.

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