

## SENATE Substitute for HOUSE BILL No. 2421

By Committee on Ways and Means

4-2

---

9 AN ACT concerning tort claims; expanding the definition of employee;  
10 amending K.S.A. 2007 Supp. 75-6102 and repealing the existing  
11 section.  
12

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

14 Section 1. K.S.A. 2007 Supp. 75-6102 is hereby amended to read as  
15 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amend-  
16 ments thereto, unless the context clearly requires otherwise:

17 (a) "State" means the state of Kansas and any department or branch  
18 of state government, or any agency, authority, institution or other instru-  
19 mentality thereof.

20 (b) "Municipality" means any county, township, city, school district  
21 or other political or taxing subdivision of the state, or any agency, au-  
22 thority, institution or other instrumentality thereof.

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

24 (d) "Employee" means any officer, employee, servant or member of  
25 a board, commission, committee, division, department, branch or council  
26 of a governmental entity, including elected or appointed officials and  
27 persons acting on behalf or in service of a governmental entity in any  
28 official capacity, whether with or without compensation and a charitable  
29 health care provider. Employee includes any steward or racing judge ap-  
30 pointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless  
31 of whether the services of such steward or racing judge are rendered  
32 pursuant to contract as an independent contractor, but does not otherwise  
33 include any independent contractor under contract with a governmental  
34 entity except (1) employees of the United States marshal's service en-  
35 gaged in the transportation of inmates on behalf of the secretary of cor-  
36 rections, (2) a person who is an employee of a nonprofit independent  
37 contractor, other than a municipality, under contract to provide educa-  
38 tional or vocational training to inmates in the custody of the secretary of  
39 corrections and who is engaged in providing such service in an institution  
40 under the control of the secretary of corrections provided that such em-  
41 ployee does not otherwise have coverage for such acts and omissions  
42 within the scope of their employment through a liability insurance con-  
43 tract of such independent contractor; (3) a person who is an employee or

1 volunteer of a nonprofit program, other than a municipality, who has  
2 contracted with the commissioner of juvenile justice or with another non-  
3 profit program that has contracted with the commissioner of juvenile  
4 justice to provide a juvenile justice program for juvenile offenders in a  
5 judicial district provided that such employee or volunteer does not oth-  
6 erwise have coverage for such acts and omissions within the scope of their  
7 employment or volunteer activities through a liability insurance contract  
8 of such nonprofit program; and (4) a person who contracts with the Kan-  
9 sas guardianship program to provide services as a court-appointed guard-  
10 ian or conservator. “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. *“Employee” also includes*  
14 *medical students enrolled at the university of Kansas medical center that*  
15 *are in clinical training at the university of Kansas medical center or at*  
16 *other health care institutions.* “Employee” also includes any member of  
17 a regional medical emergency response team, created under the provi-  
18 sions of K.S.A. 48-928, and amendments thereto, in connection with au-  
19 thorized training or upon activation for an emergency response. “Em-  
20 ployee” does not include an individual or entity for actions within the  
21 scope of K.S.A. 60-3614, and amendments thereto.

22 (e) “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 assistant licensed by the state board of healing arts or a  
26 health care provider as the term “health care provider” is defined under  
27 K.S.A. 65-4921, and amendments thereto, who has entered into an agree-  
28 ment 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;

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); or
- 10 (4) the secretary of health and environment to provide dentistry serv-  
11 ices defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental  
12 hygienist services defined by K.S.A. 65-1456, and amendments thereto,  
13 that are targeted, but are not limited to medically indigent persons, and  
14 are provided on a gratuitous basis at a location sponsored by a not-for-  
15 profit organization that is not the dentist or dental hygienist office loca-  
16 tion. Except that such dentistry services and dental hygienist services shall  
17 not include “oral and maxillofacial surgery” as defined by Kansas admin-  
18 istrative regulation 71-2-2, or use sedation or general anesthesia that re-  
19 sult in “deep sedation” or “general anesthesia” as defined by Kansas ad-  
20 ministrative regulation 71-5-1.
- 21 (f) “Medically indigent person” means a person who lacks resources  
22 to pay for medically necessary health care services and who meets the  
23 eligibility criteria for qualification as a medically indigent person estab-  
24 lished by the secretary of health and environment under K.S.A. 75-6120,  
25 and amendments thereto.
- 26 (g) “Indigent health care clinic” means an outpatient medical care  
27 clinic operated on a not-for-profit basis which has a contractual agreement  
28 in effect with the secretary of health and environment to provide health  
29 care services to medically indigent persons.
- 30 (h) “Local health department” shall have the meaning ascribed to  
31 such term under K.S.A. 65-241, and amendments thereto.
- 32 (i) “Fire control, fire rescue or emergency medical services equip-  
33 ment” means any vehicle, firefighting tool, protective clothing, breathing  
34 apparatus and any other supplies, tools or equipment used in firefighting  
35 or fire rescue or in the provision of emergency medical services.
- 36 Sec. 2. K.S.A. 2007 Supp. 75-6102 is hereby repealed.
- 37 Sec. 3. This act shall take effect and be in force from and after its  
38 publication in the statute book.