

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2029

By Committee on Judiciary

1-18

1 AN ACT concerning the Kansas tort claims act; concerning charitable
2 health care providers; amending K.S.A. 2010 Supp. 75-6102 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2010 Supp. 75-6102 is hereby amended to read
7 as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
8 amendments thereto, unless the context clearly requires otherwise:

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

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

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

16 (d) (1) "Employee" means: (A) Any officer, employee, servant or
17 member of a board, commission, committee, division, department,
18 branch or council of a governmental entity, including elected or
19 appointed officials and persons acting on behalf or in service of a
20 governmental entity in any official capacity, whether with or without
21 compensation and a charitable health care provider;

22 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
23 8818, and amendments thereto, regardless of whether the services of
24 such steward or racing judge are rendered pursuant to contract as an
25 independent contractor;

26 (C) employees of the United States marshal's service engaged in
27 the transportation of inmates on behalf of the secretary of corrections;

28 (D) a person who is an employee of a nonprofit independent
29 contractor, other than a municipality, under contract to provide
30 educational or vocational training to inmates in the custody of the
31 secretary of corrections and who is engaged in providing such service
32 in an institution under the control of the secretary of corrections
33 provided that such employee does not otherwise have coverage for such

1 acts and omissions within the scope of their employment through a
2 liability insurance contract of such independent contractor;

3 (E) a person who is an employee or volunteer of a nonprofit
4 program, other than a municipality, who has contracted with the
5 commissioner of juvenile justice or with another nonprofit program that
6 has contracted with the commissioner of juvenile justice to provide a
7 juvenile justice program for juvenile offenders in a judicial district
8 provided that such employee or volunteer does not otherwise have
9 coverage for such acts and omissions within the scope of their
10 employment or volunteer activities through a liability insurance
11 contract of such nonprofit program;

12 (F) a person who contracts with the Kansas guardianship program
13 to provide services as a court-appointed guardian or conservator;

14 (G) an employee of an indigent health care clinic;

15 (H) former employees for acts and omissions within the scope of
16 their employment during their former employment with the
17 governmental entity;

18 (I) any member of a regional medical emergency response team,
19 created under the provisions of K.S.A. 48-928, and amendments
20 thereto, in connection with authorized training or upon activation for an
21 emergency response; and

22 (J) medical students enrolled at the university of Kansas medical
23 center who are in clinical training, on or after July 1, 2008, at the
24 university of Kansas medical center or at another health care institution.

25 (2) "Employee" does not include: (A) An individual or entity for
26 actions within the scope of K.S.A. 60-3614, and amendments thereto;
27 or

28 (B) any independent contractor under contract with a
29 governmental entity except those contractors specifically listed in
30 paragraph (1) of this subsection.

31 (e) "Charitable health care provider" means a person licensed by
32 the state board of healing arts as an exempt licensee or a federally
33 active licensee, a person issued a limited permit by the state board of
34 healing arts, a physician assistant licensed by the state board of healing
35 arts, a mental health practitioner licensed by the behavioral sciences
36 regulatory board, *an ultrasound technologist currently registered in*
37 **any area of sonography credentialed through the American registry**
38 **of radiology technologists, the American registry for diagnostic**
39 **medical sonography or cardiovascular credentialing international**

1 **and** *working under the supervision of a person licensed to practice*
2 *medicine and surgery*, or a health care provider as the term "health care
3 provider" is defined under K.S.A. 65-4921, and amendments thereto,
4 who has entered into an agreement with:

5 (1) The secretary of health and environment under K.S.A. 75-
6 6120, and amendments thereto, who, pursuant to such agreement,
7 gratuitously renders professional services to a person who has provided
8 information which would reasonably lead the health care provider to
9 make the good faith assumption that such person meets the definition of
10 medically indigent person as defined by this section or to a person
11 receiving medical assistance from the programs operated by the Kansas
12 health policy authority, and who is considered an employee of the state
13 of Kansas under K.S.A. 75-6120, and amendments thereto;

14 (2) the secretary of health and environment and who, pursuant to
15 such agreement, gratuitously renders professional services in
16 conducting children's immunization programs administered by the
17 secretary;

18 (3) a local health department or indigent health care clinic, which
19 renders professional services to medically indigent persons or persons
20 receiving medical assistance from the programs operated by the Kansas
21 health policy authority gratuitously or for a fee paid by the local health
22 department or indigent health care clinic to such provider and who is
23 considered an employee of the state of Kansas under K.S.A. 75-6120,
24 and amendments thereto. Professional services rendered by a provider
25 under this paragraph (3) shall be considered gratuitous notwithstanding
26 fees based on income eligibility guidelines charged by a local health
27 department or indigent health care clinic and notwithstanding any fee
28 paid by the local health department or indigent health care clinic to a
29 provider in accordance with this paragraph (3); or

30 (4) the secretary of health and environment to provide dentistry
31 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or
32 dental hygienist services defined by K.S.A. 65-1456, and amendments
33 thereto, that are targeted, but are not limited to medically indigent
34 persons, and are provided on a gratuitous basis at a location sponsored
35 by a not-for-profit organization that is not the dentist or dental hygienist
36 office location. Except that such dentistry services and dental hygienist
37 services shall not include "oral and maxillofacial surgery" as defined by
38 Kansas administrative regulation 71-2-2, or use sedation or general
39 anesthesia that result in "deep sedation" or "general anesthesia" as

1 defined by Kansas administrative regulation 71-5-1.

2 (f) "Medically indigent person" means a person who lacks
3 resources to pay for medically necessary health care services and who
4 meets the eligibility criteria for qualification as a medically indigent
5 person established by the secretary of health and environment under
6 K.S.A. 75-6120, and amendments thereto.

7 (g) "Indigent health care clinic" means an outpatient medical care
8 clinic operated on a not-for-profit basis which has a contractual
9 agreement in effect with the secretary of health and environment to
10 provide health care services to medically indigent persons.

11 (h) "Local health department" shall have the meaning ascribed to
12 such term under K.S.A. 65-241, and amendments thereto.

13 (i) "Fire control, fire rescue or emergency medical services
14 equipment" means any vehicle, firefighting tool, protective clothing,
15 breathing apparatus and any other supplies, tools or equipment used in
16 firefighting or fire rescue or in the provision of emergency medical
17 services.

18 Sec. 2. K.S.A. 2010 Supp. 75-6102 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.