

ORIGINAL SENATE
FILE NO. 0175

ENROLLED ACT NO. 85, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to civil actions; providing for waiver of governmental immunity for specified contract health professionals providing services for state institutions and county jails; modifying limitations on damages; providing corresponding coverage under the local government and state self-insurance programs; repealing obsolete provisions; making conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 1-39-103(a)(iv)(C), 1-39-104(d), 1-39-110, 1-39-115(d), 1-41-102(a)(v)(C), 1-41-103(c)(v), 1-42-201(a)(vi), 1-42-202(b) by creating a new paragraph (iv) and 7-2-106(c) are amended to read:

1-39-103. Definitions.

(a) As used in this act:

(iv) "Public employee":

(C) Includes contract physicians, physician assistants, nurses, optometrists and dentists in the course of providing contract services for state institutions or county jails;

1-39-104. Granting immunity from tort liability; liability on contracts; exceptions.

(d) A governmental entity shall assume and pay settlements of claims under this act against its public employees in accordance with W.S. 1-39-115, 1-41-106 or ~~1-42-107~~ 1-42-204.

ORIGINAL SENATE
FILE NO. 0175

ENROLLED ACT NO. 85, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

1-39-110. Liability; health care providers.

(a) A governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of health care providers who are employees of the governmental entity, including contract physicians, physician assistants, nurses, optometrists and dentists who are providing a service for state institutions or county jails, while acting within the scope of their duties.

(b) Notwithstanding W.S. 1-39-118(a), for claims under this section against a physician, physician assistant, nurse, optometrist or dentist employed by ~~the state of Wyoming~~ a governmental entity based upon an act, error or omission occurring on or after May 1, 1988, the liability of ~~the state~~ a governmental entity shall not exceed the sum of one million dollars (\$1,000,000.00) to any claimant for any number of claims arising out of a single transaction or occurrence nor exceed the sum of one million dollars (\$1,000,000.00) for all claims of all claimants arising out of a single transaction or occurrence.

1-39-115. Settlement of claims.

(d) Claims under this act which are not covered by insurance may be settled as provided by W.S. 1-41-106 or ~~1-42-107~~ 1-42-204.

1-41-102. Definitions.

(a) As used in this act:

(v) "Public employee" means any officer, employee or servant of the state, provided the term:

ORIGINAL SENATE
FILE NO. 0175

ENROLLED ACT NO. 85, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(C) Includes contract physicians, physician assistants, nurses, optometrists or dentists in the course of providing contract services for state institutions.

1-41-103. Self-insurance account; creation; authorized payments.

(c) Expenditures shall be made out of the self-insurance account for the following claims which have been settled or reduced to final judgment:

(v) Claims against contract physicians, physician assistants, nurses, optometrists or dentists brought under the Wyoming Governmental Claims Act or federal law, provided:

(A) The contract physician, physician assistant, nurse, optometrist or dentist is unable to procure medical malpractice insurance coverage up to the limits specified in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

(B) The liability of the state shall not exceed limits specified in W.S. 1-39-118(a) except as the limitation may be increased by W.S. 1-39-110(b) both reduced by the amount of the contract physician's, physician assistant's, nurse's, optometrist's or dentist's malpractice insurance coverage applicable to such claim; and

(C) The claim arises from services performed by the contract physician, physician assistant, nurse, optometrist or dentist for a state institution.

1-42-201. Definitions.

ORIGINAL SENATE
FILE NO. 0175

ENROLLED ACT NO. 85, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

(a) As used in this act:

(vi) "Public employee" means any officer, employee or servant of a local government including elected or appointed officials and persons acting on behalf or in service of the local government in any official capacity, whether with or without compensation, including individuals engaged in search and rescue operations under the coordination of a county sheriff pursuant to W.S. 18-3-609(a)(iii). ~~The term~~ "Public employee":

(A) Except as provided in subparagraph (b) of this paragraph, does not include an independent contractor, peace officer or a judicial officer exercising the authority vested in him;

(B) Includes contract physicians, physician assistants, nurses, optometrists and dentists in the course of providing contract services for county jails.

1-42-202. Local government self-insurance program; creation; authorized payments.

(b) Upon approval of the board, expenditures shall be made by the program for the following claims which have been settled or reduced to final judgment:

(iv) Claims against contract physicians, physician assistants, nurses, optometrists or dentists brought under the Wyoming Governmental Claims Act or federal law, provided:

(A) The contract physician, physician assistant, nurse, optometrist or dentist is unable to procure medical malpractice insurance coverage up to the

ORIGINAL SENATE
FILE NO. 0175

ENROLLED ACT NO. 85, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

limits specified in W.S. 1-39-110(b) or 1-39-118(a) as applicable;

(B) The liability of the county shall not exceed limits specified in W.S. 1-39-118(a) except as the limitation may be increased by W.S. 1-39-110(b) both reduced by the amount of the contract physician's, physician assistant's, nurse's, optometrist's or dentist's malpractice insurance coverage applicable to such claim; and

(C) The claim arises from the services performed by the physician, physician assistant, nurse, optometrist or dentist for a county jail.

7-2-106. Extraterritorial authority of peace officers; requests for assignment of peace officers; liability; compensation.

(c) A peace officer acting pursuant to subsection (a) or (b) of this section outside his own jurisdiction shall be deemed to be acting within the scope of his duties for purposes of the Wyoming Governmental Claims Act and the state self-insurance program, W.S. 1-41-101 through 1-41-111, or the local government self-insurance program, W.S. ~~1-42-101~~ 1-42-201 through 1-42-207. All privileges and immunities from liability, and all pension, disability, worker's compensation and other benefits which normally apply to peace officers while they perform their duties in their own jurisdiction shall also apply to them when acting as provided in subsection (a) or (b) of this section. For purposes of W.S. 27-14-104, the requesting and assigning law enforcement agencies shall be a joint employer as defined under W.S. 27-14-102(a)(xix) and the designated peace officer shall be a joint employee as defined under W.S. 27-14-102(a)(xxi).

ORIGINAL SENATE
FILE NO. 0175

ENROLLED ACT NO. 85, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

Section 2. W.S. 1-42-101 through 1-42-111 are repealed.

Section 3. This act shall apply to acts or omissions occurring on or after the effective date of this act.

Section 4. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk