

HOUSE BILL No. 2097

By Committee on Veterans, Military and Homeland Security

1-23

1 AN ACT concerning search and rescue and hazardous material response
2 matters; dealing with tort claims immunity; amending K.S.A. 2014
3 Supp. 75-6102 and repealing the existing section.
4

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

6 New Section 1. (a) The state fire marshal may enter into contracts to
7 establish regional search and rescue teams to provide a response to search
8 and rescue incidents.

9 (b) (1) The state fire marshal shall appoint a search and rescue
10 advisory committee to provide input and assistance to the search and
11 rescue program and act as advisors to the state fire marshal and director of
12 the emergency response division.

13 (2) The search and rescue advisory committee shall be comprised of
14 one member from each search and rescue region, one representative from
15 the Kansas division of emergency management, one representative from
16 the Kansas national guard/crisis city, one representative from the Kansas
17 fire and rescue training institute and one representative from the Kansas
18 search and rescue dog association.

19 (3) The committee shall meet periodically as determined by the state
20 fire marshal. Advisory committee members attending committee meetings
21 shall be paid per diem compensation and subsistence allowances, mileage
22 and other reasonable and necessary expenses as provided in K.S.A. 75-
23 3223, and amendments thereto.

24 (c) The state fire marshal may adopt rules and regulations governing
25 the composition, training requirements, response and operations of the
26 regional search and rescue teams.

27 New Sec. 2. (a) The hazardous materials emergency fund of the state
28 fire marshal is hereby redesignated as the emergency response fund of the
29 state fire marshal. In addition to any other purposes for which expenditures
30 may be made by the state fire marshal from the moneys appropriated from
31 the emergency response fund, expenditures shall be made by the state fire
32 marshal from the moneys appropriated from the emergency response fund
33 to establish and maintain regional emergency response teams to provide a
34 response to hazardous materials or search and rescue incidents.

35 (b) In the event the balance of the emergency response fund of the
36 state fire marshal falls below \$500,000, the state fire marshal may certify

1 to the director of accounts and reports an amount to be transferred from the
2 fire marshal fee fund to the emergency response fund of the state fire
3 marshal, which amount shall not exceed the amount necessary to bring the
4 balance of the emergency response fund to \$500,000. The director of
5 accounts and reports shall transfer the amount certified by the state fire
6 marshal from the fire marshal fee fund to the emergency response fund of
7 the state fire marshal.

8 Sec. 3. K.S.A. 2014 Supp. 75-6102 is hereby amended to read as
9 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
10 amendments thereto, unless the context clearly requires otherwise:

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

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

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

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

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

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

30 (D) a person who is an employee of a nonprofit independent
31 contractor, other than a municipality, under contract to provide educational
32 or vocational training to inmates in the custody of the secretary of
33 corrections and who is engaged in providing such service in an institution
34 under the control of the secretary of corrections provided that such
35 employee does not otherwise have coverage for such acts and omissions
36 within the scope of their employment through a liability insurance contract
37 of such independent contractor;

38 (E) a person who is an employee or volunteer of a nonprofit program,
39 other than a municipality, who has contracted with the commissioner of
40 juvenile justice or with another nonprofit program that has contracted with
41 ~~the commissioner of juvenile justice~~ *secretary of corrections* to provide a
42 juvenile justice program for juvenile offenders in a judicial district
43 provided that such employee or volunteer does not otherwise have

1 coverage for such acts and omissions within the scope of their employment
2 or volunteer activities through a liability insurance contract of such
3 nonprofit program;

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

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

7 (H) former employees for acts and omissions within the scope of their
8 employment during their former employment with the governmental
9 entity;

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

14 (J) *any member of a regional search and rescue team or regional*
15 *hazardous materials response team contracting with the state fire marshal*
16 *pursuant to K.S.A. 31-133, and amendments thereto, or section 1, and*
17 *amendments thereto, in connection with authorized training or upon*
18 *activation for an emergency response; and*

19 (K) medical students enrolled at the university of Kansas medical
20 center who are in clinical training, on or after July 1, 2008, at the
21 university of Kansas medical center or at another health care institution.

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

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

27 (e) "Charitable health care provider" means a person licensed by the
28 state board of healing arts as an exempt licensee or a federally active
29 licensee, a person issued a limited permit by the state board of healing arts,
30 a physician assistant licensed by the state board of healing arts, a mental
31 health practitioner licensed by the behavioral sciences regulatory board, an
32 ultrasound technologist currently registered in any area of sonography
33 credentialed through the American registry of radiology technologists, the
34 American registry for diagnostic medical sonography or cardiovascular
35 credentialing international and working under the supervision of a person
36 licensed to practice medicine and surgery, or a health care provider as the
37 term "health care provider" is defined under K.S.A. 65-4921, and
38 amendments thereto, who has entered into an agreement with:

39 (1) The secretary of health and environment under K.S.A. 75-6120,
40 and amendments thereto, who, pursuant to such agreement, gratuitously
41 renders professional services to a person who has provided information
42 which would reasonably lead the health care provider to make the good
43 faith assumption that such person meets the definition of medically

1 indigent person as defined by this section or to a person receiving medical
2 assistance from the programs operated by the department of health and
3 environment, and who is considered an employee of the state of Kansas
4 under K.S.A. 75-6120, and amendments thereto;

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

8 (3) a local health department or indigent health care clinic, which
9 renders professional services to medically indigent persons or persons
10 receiving medical assistance from the programs operated by the
11 department of health and environment gratuitously or for a fee paid by the
12 local health department or indigent health care clinic to such provider and
13 who is considered an employee of the state of Kansas under K.S.A. 75-
14 6120, and amendments thereto. Professional services rendered by a
15 provider under this paragraph (3) shall be considered gratuitous
16 notwithstanding fees based on income eligibility guidelines charged by a
17 local health department or indigent health care clinic and notwithstanding
18 any fee paid by the local health department or indigent health care clinic to
19 a provider in accordance with this paragraph (3); or

20 (4) the secretary of health and environment to provide dentistry
21 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or
22 dental hygienist services defined by K.S.A. 65-1456, and amendments
23 thereto, that are targeted, but are not limited to, medically indigent
24 persons, and are provided on a gratuitous basis: (A) At a location
25 sponsored by a not-for-profit organization that is not the dentist or dental
26 hygienist office location; ~~or~~ (B) at the office location of a dentist or dental
27 hygienist provided the care be delivered as part of a program organized by
28 a not-for-profit organization and approved by the secretary of health and
29 environment; or (C) as part of a charitable program organized by the
30 dentist that has been approved by the secretary of health and environment
31 upon a showing that the dentist seeks to treat medically indigent patients
32 on a gratuitous basis, except that such dentistry services and dental
33 hygienist services shall not include "oral and maxillofacial surgery" as
34 defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result
35 in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

36 (f) "Medically indigent person" means a person who lacks resources
37 to pay for medically necessary health care services and who meets the
38 eligibility criteria for qualification as a medically indigent person
39 established by the secretary of health and environment under K.S.A. 75-
40 6120, and amendments thereto.

41 (g) "Indigent health care clinic" means an outpatient medical care
42 clinic operated on a not-for-profit basis which has a contractual agreement
43 in effect with the secretary of health and environment to provide health

1 care services to medically indigent persons.

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

4 (i) "Fire control, fire rescue or emergency medical services
5 equipment" means any vehicle, firefighting tool, protective clothing,
6 breathing apparatus and any other supplies, tools or equipment used in
7 firefighting or fire rescue or in the provision of emergency medical
8 services.

9 Sec. 4. K.S.A. 2014 Supp. 75-6102 is hereby repealed.

10 Sec. 5. This act shall take effect and be in force from and after its
11 publication in the ~~statute book~~ **{Kansas register}**.