

Spiciary

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88 ISO-0364

SENATE FILE *091*

THE

SF0091FT03

AN ACT to amend W.S. 1-39-104(a) and (b) and by creating new subsections (c) and (d), 1-39-110, 1-39-115(d) and 1-39-118(a) relating to civil procedure; providing for defense of claims against employees of governmental entities; limiting liability of public employees and the amount of indemnification by governmental entities for claims against such employees; prohibiting payment of claims unless a determination has been made that the public employee was acting within the scope of his duties; providing for a temporary increase in the limits of liability for claims involving physicians employed by the state; conforming related statutes; correcting an error in statutory citation; and providing for an effective date.

SENATE FILE *091*

Introduced by

[Signature]

DATE	ACTION	DATE	ACTION
FEB 18 1968	INTRODUCED		PASSED
	READ FIRST TIME		<i>Amended</i>
	REFERRED TO COM. NO. <u>1</u>		<i>Roll Call</i>
	DELIVERED TO COM. NO. <u>1</u>	MAR 6 1968	Resolved Amended
FEB 24 1968	STANDING COMM. REPORT		<i>Concur on House Amendments</i>
	RECOMMENDED DO PASS		<i>30 Ayes 0 Excused 0 Absent 0</i>
FEB 26 1968	CONSIDERED IN COM. OF WHOLE		Delivered to Enrolling Section
	DO PASS		Received
FEB 29 1968	READ SECOND TIME		Delivered to Enrolling Section
	DO PASS		<i>3-9 SEA No. 28, Signed by President</i>
			<i>2-10 Signed by Speaker</i>
			<i>3-11 Approved by Governor</i>
			Chapter No. <u>45</u> Session Laws of Wyoming
MAR 1 1968	READ THIRD TIME		
	<i>Consent List</i>		
	<i>Amended</i>		
	<i>Amended as follows</i>		
	<i>Adopted</i>		
MAR 1 1968	READ FIRST TIME		
	REFERRED TO COM. NO. <u>1</u>		
	DELIVERED TO COM. NO. <u>1</u>		
MAR 2 1968	RETURNED		
	Recommended do <i>pass</i>		
MAR 3 1968	CONSIDERED IN COM. OF WHOLE		
	<i>Amended as follows</i>		
	<i>Adopted</i>		
	Recommended do <i>pass</i>		
MAR 4 1968	READ SECOND TIME		
MAR 7 1968	READ THIRD TIME		

CONTINUED ON BACK

SF 91 Concurrence Date 3/8/88

SENATE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent
ARNEY	✓			
BURNETT	✓			
CUNDALL	✓			
DIXON	✓			
DUSL	✓			
EDDINS	✓			
FANOS	✓			
FRISBY	✓			
GRIEVE	✓			
HEALY	✓			
HERBST	✓			
HICKEY	✓			
HINCKLEY	✓			
KINNEY	✓			
LARSON	✓			
MADER	✓			
NORRIS	✓			
PERRY	✓			
PREVEDEL	✓			
REESE	✓			
SCHMIDT	✓			
SCOTT	✓			
STROOCK	✓			
SULLIVAN	✓			
TRUE	✓			
TURNER				
TWIFORD	✓			
VINICH	✓			
WIEDERSPAHN	✓			
ZIMMER	✓			
MR. PRESIDENT	✓			

PRESENT _____

AYES	<u>30</u>
NOES	_____
EXCUSED	_____
ABSENT	_____
TOTAL	<u>30</u>

Consent List

SF 91 3rd Date 3/1/88

SENATE ROLL CALL FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent
ARNEY	✓			
BURNETT	✓			
CUNDALL	✓			
DIXON	✓			
DUSL	✓			
EDDINS	✓			
FANOS		✓		
FRISBY	✓			
GRIEVE	✓			
HEALY	✓			
HERBST	✓			
HICKEY	✓			
HINCKLEY	✓			
KINNEY	✓			
LARSON	✓			
MADER	✓			
NORRIS	✓			
PERRY	✓			
PREVEDEL	✓			
REESE	✓			
SCHMIDT	✓			
SCOTT	✓			
STROOCK	✓			
SULLIVAN	✓			
TRUE	✓			
TURNER	<hr/>			
TWIFORD	✓			
VINICH	✓			
WIEDERSPAHN	✓			
ZIMMER	✓			
MR. PRESIDENT	✓			

PRESENT _____

AYES 29
 NOES 1
 EXCUSED _____
 ABSENT _____
 TOTAL 30

SF 91 Ind Date 2/18/88

SENATE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent
ARNEY	✓			
BURNETT	✓			
CUNDALL	✓			
DIXON	✓			
DUSL	✓			
EDDINS	✓			
FANOS	✓			
FRISBY	✓			
GRIEVE	✓			
HEALY	✓			
HERBST	✓			
HICKEY	✓			
HINCKLEY	✓			
KINNEY	✓			
LARSON	✓			
MADER	✓			
NORRIS	✓			
PERRY	✓			
PREVEDEL	✓			
REESE	✓			
SCHMIDT	✓			
SCOTT	✓			
STROOCK	✓			
SULLIVAN <i>Exc.</i>			✓	
TRUE	✓			
TURNER				
TWIFORD	✓			
VINICH	✓			
WIEDERSPAHN	✓			
ZIMMER	✓			
MR. PRESIDENT	✓			

PRESENT _____

AYES 29
 NOES _____
 EXCUSED 1
 ABSENT _____
 TOTAL 30

#1991 *Thick Reading* Date *3/7/88*
OK

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				O'TOOLE	✓			
BEBOUT	✓				PARKER		✓		
BEHRENS	✓				PERKINS, D.	✓			
BIRLEFFI	✓				PERKINS, J.	✓			
BLACKWELL	✓				PLANT	✓			
BUDD	✓				RANKINE	✓			
BURTON	✓				RATLIFF	✓			
BYRD	✓				ROBERTSON	✓			
CAMERON		✓			ROHRBACH	✓			
CHAMBERLAIN	✓				RYCKMAN	✓			
CROSS	✓				SCHWOPE	✓			
CUBIN		✓			SHREVE	✓			
DICKEY	✓				SIMONS	✓			
ENZI	✓				STAUFFER	✓			
FREUDENTHAL		✓			TATE	✓			
GERINGER	✓				TEMPEST	✓			
GRANT	✓				THOMAS	✓			
GUICE	✓				TIBBS	✓			
HAGEMAN	✓				TIPPETS	✓			
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓				WOLFLEY	✓			
JENSEN	✓				YORDY	✓			
LUMMIS	✓				ZIMMERMAN	✓			
MACMILLAN	✓				ZUMBRUNNEN		✓		
MALDONADO	✓				MR. SPEAKER	✓			
MARTON	✓				PRESENT _____ AYES <u>58</u> NOES <u>6</u> ABSENT _____ EXCUSED _____ TOTAL <u>64</u> LESS _____				
MCILVAIN	✓								
MEENAN									
MICHEL	✓								
MILLER	✓								
MURPHY	✓								
ODDE	✓								

26, *Convent* Date *3/2/88*

38, 43, 78, 91

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				O'TOOLE	✓			
BEBOUT	✓				PARKER	✓			
BEHRENS	✓				PERKINS, D.	✓			
BIRLEFFI	✓				PERKINS, J.	✓			
BLACKWELL	✓				PLANT	✓			
BUDD	✓				RANKINE	✓			
BURTON	✓				RATLIFF	✓			
BYRD	✓				ROBERTSON	✓			
CAMERON	✓				ROHRBACH	✓			
CHAMBERLAIN	✓				RYCKMAN	✓			
CROSS	✓				SCHWOPE	✓			
CUBIN	✓				SHREVE	✓			
DICKEY	✓				SIMONS	✓			
ENZI	✓				STAUFFER	✓			
FREUDENTHAL	✓				TATE	✓			
GERINGER	✓				TEMPEST	✓			
GRANT	✓				THOMAS	✓			
GUICE	✓				TIBBS	✓			
HAGEMAN	✓				TIPPETS	✓			
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓				WOLFLEY	✓			
JENSEN	✓				YORDY	✓			
LUMMIS	✓				ZIMMERMAN	✓			
MACMILLAN	✓				ZUMBRUNNEN	✓			
MALDONADO	✓				MR. SPEAKER	✓			
MARTON	✓								
MCILVAIN	✓								
RENNAN									
MICHEL	✓								
MILLER	✓								
MURPHY	✓								
ODDE	✓								

PRESENT _____ AYES 63
 NOES _____
 ABSENT 1
 EXCUSED _____
 TOTAL 64
 LESS _____

House of Intro
To Com. No. _____
Stand Report Do Amd Not _____
Com Whole Do Amd Not _____
2nd Reading Amd _____
3rd Reading Amd Pass Fail _____

Second House
To Com No. _____
Stand Report Do Amd Not _____
Com Whole Do Amd Not _____
2nd Reading Amd _____
3rd Reading Amd Pass Fail _____

INTRODUCED

1988

STATE OF WYOMING

88LSO-0364.01

SENATE FILE NO. 0091

Claims against government employees - 1.

Sponsored by:  JOINT JUDICIARY INTERIM COMMITTEE

A BILL

for

1 AN ACT to amend W.S. 1-39-104(a) and (b) and by creating
2 new subsections (c) and (d), 1-39-115(d) and 1-39-118(a)
3 relating to civil procedure; providing for defense of
4 claims against employees of governmental entities; limit-
5 ing liability of public employees and the amount of indem-
6 nification by governmental entities for claims against
7 such employees; prohibiting payment of claims unless a
8 determination has been made that the public employee was
9 acting within the scope of his duties; conforming related
10 statutes; correcting an error in statutory citation; and
11 providing for an effective date.

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

2 Section 1. W.S. 1-39-104(a) and (b) and by creating
3 new subsections (c) and (d), 1-39-115(d) and 1-39-118(a)
4 are amended to read:

5 1-39-104. Granting immunity from tort liability;
6 liability on contracts; exceptions.

7 (a) A governmental entity and its public employees
8 while acting within the scope of duties are granted immu-
9 nity from liability for any tort except as provided by
10 W.S. 1-39-105 through 1-39-112. Any immunity in actions
11 based on a contract entered into by a governmental entity
12 is waived except to the extent provided by the contract if
13 the contract was within the powers granted to the entity
14 and was properly executed. The claims procedures of W.S.
15 ~~1-39-105--through--1-39-112~~ 1-39-113 apply to contractual
16 claims against governmental entities.

17 (b) When liability is alleged against any public
18 employee, if the governmental entity determines he was
19 acting within the scope of his duty, whether or not
20 alleged to have been committed maliciously or fraudu-
21 lently, the governmental entity shall provide a defense at
22 its expense.

1 (c) A governmental entity shall ~~save--harmless,--and~~
2 ~~indemnify~~ ASSUME AND PAY A JUDGMENT ENTERED UNDER THIS ACT
3 AGAINST ANY OF its public employees, ~~against-any-tert~~
4 ~~claim-or-judgment-arising-out-of-an~~ PROVIDED:

5 (i) THE act or omission ~~occurring~~ UPON WHICH
6 THE CLAIM IS BASED HAS BEEN DETERMINED BY A COURT OR JURY
7 TO BE within the PUBLIC EMPLOYEE'S scope of ~~their~~ duties;
8 ~~---At--the--time--a-judgment-is-rendered-against-a-public~~
9 ~~employee-pursuant-to--this--subsection,--the--governmental~~
10 ~~entity-shall-assume-the-judgment-~~

11 (ii) THE PAYMENT FOR THE JUDGMENT SHALL NOT
12 EXCEED THE LIMITS PROVIDED BY W.S. 1-39-118; AND

13 (iii) ALL APPROPRIATE APPEALS FROM THE JUDG-
14 MENT HAVE BEEN EXHAUSTED OR THE TIME HAS EXPIRED WHEN
15 APPEALS MAY BE TAKEN.

16 (d) A GOVERNMENTAL ENTITY SHALL ASSUME AND PAY SET-
17 TLEMENTS OF CLAIMS UNDER THIS ACT AGAINST ITS PUBLIC
18 EMPLOYEES IN ACCORDANCE WITH W.S. 1-39-115, 1-41-106 OR
19 1-42-107.

20 1-39-115. Settlement of claims.

21 (d) Claims under this act which are not covered by

1 insurance may be settled as provided by W.S. 1-41-106 OR
2 1-42-107.

3 1-39-118. Maximum liability; insurance authorized.

4 (a) Except as provided in subsection (b) of this
5 section, in any action under this act, the liability of
6 the governmental entity, INCLUDING A PUBLIC EMPLOYEE WHILE
7 ACTING WITHIN THE SCOPE OF HIS DUTIES, shall not exceed:

8 Section 2. This act shall apply only to claims based
9 upon an act, error or omission occurring on and after the
10 effective date of this act.

11 Section 3. This act is effective June 9, 1988.

12 (END)

FISCAL NOTE

<u>Anticipated REVENUE to:</u>	<u>FY 19</u>	<u>FY 19</u>	<u>FY 19</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED REVENUE	_____	_____	_____
=====			
<u>Anticipated COST to:</u>	<u>FY 19</u>	<u>FY 19</u>	<u>FY 19</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED COST	_____	_____	_____
=====			

A fiscal impact is possible. However, time before bill introduction deadline is not sufficient for in-depth analysis.

3 Com
4 Amd
5 Com
5 Com
6 Amd
7 Amd
9 LSO-

3 Com
4 Amd
5 Amd
5 Amd
6 Amd
7 Amd
38 LSO-

107 iii

* END OF SPELLING CHECK OF 88LSO-0364.C4
FOR OPERATOR 123

*

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

Cheyenne, March 2 19 88

Mr. Speaker:

Your Committee No. 1 on JUDICIARY

to whom was referred S.F. No. 0091

respectfully reports same back to the House with the recommendation that it

DO PASS.

AYESNOESEXCUSED

Rep. Harrison
Odde
Robertson
Rohrbach
Ryckman
Tate
Yordy
Tipton

Hansen


.....
HARRY B. TIPTON

Chairman

1 SF0091HW1/A

2 ✓ Page 1-line 2 After "(d)," insert "1-39-110,".

3 ✓ Page 1-line 9 After ";" insert "providing for a temporary
4 increase in the limits of liability for
5 claims involving physicians employed by the
6 state;".

7 ✓ Page 2-line 3 After "(d)," insert "1-39-110,".

8 Page 3-After line 19 Insert:

9 "1-39-110. Liability; health care providers.

10 (a) A governmental entity is liable for damages
11 resulting from bodily injury, wrongful death or property
12 damage caused by the negligence of health care providers who
13 are employees of the governmental entity while acting within
14 the scope of their duties.

15 (b) NOTWITHSTANDING W.S. 1-39-118(a), FOR CLAIMS UNDER
16 THIS SECTION AGAINST A PHYSICIAN EMPLOYED BY THE STATE OF
17 WYOMING BASED UPON AN ACT, ERROR OR OMISSION OCCURRING ON OR
18 AFTER MAY 1, 1988 AND BEFORE MAY 1, 1989, THE LIABILITY OF
19 THE STATE SHALL NOT EXCEED THE SUM OF ONE MILLION DOLLARS
20 (\$1,000,000.00) TO ANY CLAIMANT FOR ANY NUMBER OF CLAIMS
21 ARISING OUT OF A SINGLE TRANSACTION OR OCCURRENCE NOR EXCEED
22 THE SUM OF ONE MILLION DOLLARS (\$1,000,000.00) FOR ALL
23 CLAIMS OF ALL CLAIMANTS ARISING OUT OF A SINGLE TRANSACTION
24 OR OCCURRENCE.". TIPTON, ODDE, TATE, YORDY, ROHPBACH,
25 HANSEN, HARRISON *Am.* Adopted