

## HOUSE BILL No. 2097

By Committee on Veterans, Military and Homeland Security

1-23

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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.  
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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.