HOUSE BILL No. 2097

By Committee on Veterans, Military and Homeland Security

1-23

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

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

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

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

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

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

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

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

(b) In the event the balance of the emergency response fund of the state fire marshal falls below $500,000, the state fire marshal may certify
to the director of accounts and reports an amount to be transferred from the fire marshal fee fund to the emergency response fund of the state fire marshal, which amount shall not exceed the amount necessary to bring the balance of the emergency response fund to $500,000. The director of accounts and reports shall transfer the amount certified by the state fire marshal from the fire marshal fee fund to the emergency response fund of the state fire marshal.

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

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

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

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

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

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

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

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

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice secretary of corrections to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have
coverage for such acts and omissions within the scope of their employment
or volunteer activities through a liability insurance contract of such
nonprofit program;
(F) a person who contracts with the Kansas guardianship program to
provide services as a court-appointed guardian or conservator;
(G) an employee of an indigent health care clinic;
(H) former employees for acts and omissions within the scope of their
employment during their former employment with the governmental
entity;
(I) any member of a regional medical emergency response team,
created under the provisions of K.S.A. 48-928, and amendments thereto, in
connection with authorized training or upon activation for an emergency
response; and
(J) any member of a regional search and rescue team or regional
hazardous materials response team contracting with the state fire marshal
pursuant to K.S.A. 31-133, and amendments thereto, or section 1, and
amendments thereto, in connection with authorized training or upon
activation for an emergency response; and
(K) medical students enrolled at the university of Kansas medical
center who are in clinical training, on or after July 1, 2008, at the
university of Kansas medical center or at another health care institution.
(2) "Employee" does not include: (A) An individual or entity for
actions within the scope of K.S.A. 60-3614, and amendments thereto; or
(B) any independent contractor under contract with a governmental
entity except those contractors specifically listed in paragraph (1) of this
subsection.
(e) "Charitable health care provider" means a person licensed by the
state board of healing arts as an exempt licensee or a federally active
licensee, a person issued a limited permit by the state board of healing arts,
a physician assistant licensed by the state board of healing arts, a mental
health practitioner licensed by the behavioral sciences regulatory board, an
ultrasound technologist currently registered in any area of sonography
credentialled through the American registry of radiology technologists, the
American registry for diagnostic medical sonography or cardiovascular
credentialled international and working under the supervision of a person
licensed to practice medicine and surgery, or a health care provider as the
term "health care provider" is defined under K.S.A. 65-4921, and
amendments thereto, who has entered into an agreement with:
(1) The secretary of health and environment under K.S.A. 75-6120,
and amendments thereto, who, pursuant to such agreement, gratuitously
renders professional services to a person who has provided information
which would reasonably lead the health care provider to make the good
faith assumption that such person meets the definition of medically
indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of health and environment, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

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

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

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

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

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

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

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

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

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