

SENATE FILE NO. SF0093

Health care providers at correctional facilities.

Sponsored by: Senator(s) Job, Caller, Coe and Larson and
Representative(s) Martin, McOmie and Parady

A BILL

for

1 AN ACT relating to civil actions; providing for waiver of
2 governmental immunity for specified contract health care
3 providers providing services for state institutions and
4 county jails; modifying limitations on damages; providing
5 corresponding coverage under the local government and state
6 self-insurance programs; providing definitions; making
7 conforming amendments; specifying applicability; and
8 providing for an effective date.

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

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12 **Section 1.** W.S. 1-39-103(a)(iv)(C), by creating new
13 paragraphs (viii) and (ix) and by renumbering (viii) as
14 (x), 1-39-110, 1-41-102(a)(v)(C), by creating new
15 paragraphs (x) and (xi) and by renumbering (x) as (xii),

1 1-41-103(c) (v), 1-42-201(a) (vi) and 1-42-202(b) by creating
2 a new paragraph (iv) are amended to read:

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4 **1-39-103. Definitions.**

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6 (a) As used in this act:

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8 (iv) "Public employee":

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10 (C) Includes contract ~~physicians~~ health
11 care providers in the course of providing contract services
12 for state institutions or county jails;

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14 (viii) "Health care" means any care, treatment,
15 service or procedure to maintain, diagnose or treat an
16 individual's physical or mental condition;

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18 (ix) "Health care provider" means any person who
19 is licensed in this state to diagnose and treat physical or
20 mental conditions and is acting within the scope of his
21 license;

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23 ~~(viii)~~ (x) "This act" means W.S. 1-39-101 through
24 1-39-121.

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

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(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~~ health care providers who are providing a service for state institutions or county jails, while acting within the scope of their duties.

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1-41-102. Definitions.

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(a) As used in this act:

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

(C) Includes contract ~~physicians~~ health care providers in the course of providing contract services for state institutions.

(x) "Health care" means as defined in W.S. 1-39-103;

(xi) "Health care provider" means as defined in W.S. 1-39-103;

~~(x)~~ (xii) "This act" means W.S. 1-41-101 through 1-41-111.

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

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

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5 (v) Claims against contract ~~physicians~~health
6 care providers brought under the Wyoming Governmental
7 Claims Act or federal law, provided:

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9 (A) The contract ~~physician~~health care
10 provider is unable to procure medical malpractice insurance
11 coverage up to the limits specified in W.S. 1-39-110(b) or
12 1-39-118(a) as applicable;

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14 (B) The liability of the state shall not
15 exceed limits specified in W.S. 1-39-118(a) except as the
16 limitation may be increased by W.S. 1-39-110(b) both
17 reduced by the amount of the contract ~~physician's~~health
18 care provider's malpractice insurance coverage applicable
19 to such claim; and

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21 (C) The claim arises from services
22 performed by the contract ~~physician~~health care provider
23 for a state institution.

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1 **1-42-201. Definitions.**

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3 (a) As used in this act:

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5 (vi) "Public employee" means any officer,
6 employee or servant of a local government including elected
7 or appointed officials and persons acting on behalf or in
8 service of the local government in any official capacity,
9 whether with or without compensation, including individuals
10 engaged in search and rescue operations under the
11 coordination of a county sheriff pursuant to W.S.
12 18-3-609(a) (iii). ~~The term~~ "Public employee":

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

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19 (B) Includes contract health care providers
20 in the course of providing contract services for county
21 jails.

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23 **1-42-202. Local government self-insurance program;**
24 **creation; authorized payments.**

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

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6 (iv) Claims against contract health care
7 providers brought under the Wyoming Governmental Claims Act
8 or federal law, provided:

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10 (A) The contract health care provider is
11 unable to procure medical malpractice insurance coverage up
12 to the limits specified in W.S. 1-39-110(b) or 1-39-118(a)
13 as applicable;

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15 (B) The liability of the county shall not
16 exceed limits specified in W.S. 1-39-118(a) except as the
17 limitation may be increased by W.S. 1-39-110(b) both
18 reduced by the amount of the contract health care
19 provider's malpractice insurance coverage applicable to
20 such claim; and

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22 (C) The claim arises from services
23 performed by the contract health care provider for a county
24 jail.

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2 **Section 2.** This act shall apply to acts or omissions
3 occurring on or after the effective date of this act.

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5 **Section 3.** This act is effective immediately upon
6 completion of all acts necessary for a bill to become law
7 as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

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(END)