

SENATE BILL No. 416

By Joint Committee on Kansas Security

1-14

9 AN ACT relating to the division of emergency management; providing
10 for a Kansas emergency response force; amending K.S.A. 48-915, 48-
11 928 and 65-5722 and K.S.A. 2007 Supp. 44-510h, 44-511, 44-577 and
12 75-6102 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2007 Supp. 44-510h is hereby amended to read as
16 follows: 44-510h. (a) It shall be the duty of the employer to provide the
17 services of a health care provider, and such medical, surgical and hospital
18 treatment, including nursing, medicines, medical and surgical supplies,
19 ambulance, crutches, apparatus and transportation to and from the home
20 of the injured employee to a place outside the community in which such
21 employee resides, and within such community if the director, in the di-
22 rector's discretion, so orders, including transportation expenses computed
23 in accordance with subsection (a) of K.S.A. 44-515 and amendments
24 thereto, as may be reasonably necessary to cure and relieve the employee
25 from the effects of the injury.

26 (b) (1) If the director finds, upon application of an injured employee,
27 that the services of the health care provider furnished as provided in
28 subsection (a) and rendered on behalf of the injured employee are not
29 satisfactory, the director may authorize the appointment of some other
30 health care provider. In any such case, the employer shall submit the
31 names of three health care providers who, if possible given the availability
32 of local health care providers, are not associated in practice together. The
33 injured employee may select one from the list who shall be the authorized
34 treating health care provider. If the injured employee is unable to obtain
35 satisfactory services from any of the health care providers submitted by
36 the employer under this paragraph, either party or both parties may re-
37 quest the director to select a treating health care provider.

38 (2) Without application or approval, an employee may consult a
39 health care provider of the employee's choice for the purpose of exami-
40 nation, diagnosis or treatment, but the employer shall only be liable for
41 the fees and charges of such health care provider up to a total amount of
42 \$500. The amount allowed for such examination, diagnosis or treatment
43 shall not be used to obtain a functional impairment rating. Any medical

1 opinion obtained in violation of this prohibition shall not be admissible
2 in any claim proceedings under the workers compensation act.

3 (c) An injured employee whose injury or disability has been estab-
4 lished under the workers compensation act may rely, if done in good faith,
5 solely or partially on treatment by prayer or spiritual means in accordance
6 with the tenets of practice of a church or religious denomination without
7 suffering a loss of benefits subject to the following conditions:

8 (1) The employer or the employer's insurance carrier agrees thereto
9 in writing either before or after the injury;

10 (2) the employee submits to all physical examinations required by the
11 workers compensation act;

12 (3) the cost of such treatment shall be paid by the employee unless
13 the employer or insurance carrier agrees to make such payment;

14 (4) the injured employee shall be entitled only to benefits that would
15 reasonably have been expected had such employee undergone medical
16 or surgical treatment; and

17 (5) the employer or insurance carrier that made an agreement under
18 paragraph (1) or (3) of this subsection may withdraw from the agreement
19 on 10 days' written notice.

20 (d) In any employment to which the workers compensation act ap-
21 plies, the employer shall be liable to each employee who is employed as
22 a duly authorized law enforcement officer, firefighter, driver of an am-
23 bulance as defined in subsection (b) of K.S.A. 65-6112, and amendments
24 thereto, an ambulance attendant as defined in subsection (d) of K.S.A.
25 65-6112, and amendments thereto, or a member of a regional emergency
26 medical response team *or a member of a Kansas emergency response force*
27 as provided in K.S.A. 48-928, and amendments thereto, including any
28 person who is serving on a volunteer basis in such capacity, for all rea-
29 sonable and necessary preventive medical care and treatment for hepatitis
30 to which such employee is exposed under circumstances arising out of
31 and in the course of employment.

32 Sec. 2. K.S.A. 2007 Supp. 44-511 is hereby amended to read as fol-
33 lows: 44-511. (a) As used in this section:

34 (1) The term "money" shall be construed to mean the gross remu-
35 neration, on an hourly, output, salary, commission or other basis, at which
36 the service rendered is recompensed in money by the employer, but it
37 shall not include any additional compensation, as defined in this section,
38 any remuneration in any medium other than cash, or any other compen-
39 sation or benefits received by the employee from the employer or any
40 other source.

41 (2) The term "additional compensation" shall include and mean only
42 the following: (A) Gratuities in cash received by the employee from per-
43 sons other than the employer for services rendered in the course of the

1 employee's employment; (B) any cash bonuses paid by the employer
2 within one year prior to the date of the accident, for which the average
3 weekly value shall be determined by averaging all such bonuses over the
4 period of time employed prior to the date of the accident, not to exceed
5 52 weeks; (C) board and lodging when furnished by the employer as part
6 of the wages, which shall be valued at a maximum of \$25 per week for
7 board and lodging combined, unless the value has been fixed otherwise
8 by the employer and employee prior to the date of the accident, or unless
9 a higher weekly value is proved; (D) the average weekly cash value of
10 remuneration for services in any medium other than cash where such
11 remuneration is in lieu of money, which shall be valued in terms of the
12 average weekly cost to the employer of such remuneration for the em-
13 ployee; and (E) employer-paid life insurance, health and accident insur-
14 ance and employer contributions to pension and profit sharing plans. In
15 no case shall additional compensation include any amounts of employer
16 taxes paid by the employer under the old-age and survivors insurance
17 system embodied in the federal social security system. Additional com-
18 pensation shall not include the value of such remuneration until and un-
19 less such remuneration is discontinued. If such remuneration is discon-
20 tinued subsequent to a computation of average gross weekly wages under
21 this section, there shall be a recomputation to include such discontinued
22 remuneration.

23 (3) The term "wage" shall be construed to mean the total of the
24 money and any additional compensation which the employee receives for
25 services rendered for the employer in whose employment the employee
26 sustains an injury by accident arising out of and in the course of such
27 employment.

28 (4) The term "part-time hourly employee" shall mean and include
29 any employee paid on an hourly basis: (A) Who by custom and practice
30 or under the verbal or written employment contract in force at the time
31 of the accident is employed to work, agrees to work, or is expected to
32 work on a regular basis less than 40 hours per week; and (B) who at the
33 time of the accident is working in any type of trade or employment where
34 there is no customary number of hours constituting an ordinary day in
35 the character of the work involved or performed by the employee.

36 (5) The term "full-time hourly employee" shall mean and include
37 only those employees paid on an hourly basis who are not part-time hourly
38 employees, as defined in this section, and who are employed in any trade
39 or employment where the customary number of hours constituting an
40 ordinary working week is 40 or more hours per week, or those employees
41 who are employed in any trade or employment where such employees
42 are considered to be full-time employees by the industrial customs of
43 such trade or employment, regardless of the number of hours worked

1 per day or per week.

2 (b) The employee's average gross weekly wage for the purpose of
3 computing any compensation benefits provided by the workers compen-
4 sation act shall be determined as follows:

5 (1) If at the time of the accident the money rate is fixed by the year,
6 the average gross weekly wage shall be the yearly rate so fixed divided by
7 52, plus the average weekly value of any additional compensation and the
8 value of the employee's average weekly overtime as computed in para-
9 graph (4) of this subsection.

10 (2) If at the time of the accident the money rate is fixed by the month,
11 the average gross weekly wage shall be the monthly rate so fixed multi-
12 plied by 12 and divided by 52, plus the average weekly value of any
13 additional compensation and the value of the employee's average weekly
14 overtime computed as provided in paragraph (4) of this subsection.

15 (3) If at the time of the accident, the money rate is fixed by the week,
16 the amount so fixed, plus the average weekly value of any additional com-
17 pensation and the value of the employee's average weekly overtime as
18 computed in paragraph (4) of this subsection, shall be the average gross
19 weekly wage.

20 (4) If at the time of the accident the employee's money rate was fixed
21 by the hour, the employee's average gross weekly wage shall be deter-
22 mined as follows: (A) If the employee was a part-time hourly employee,
23 as defined in this section, the average gross weekly wage shall be deter-
24 mined in the same manner as provided in paragraph (5) of this subsection;
25 (B) if the employee is a full-time hourly employee, as defined in this
26 section, the average gross weekly wage shall be determined as follows: (i)
27 A daily money rate shall first be found by multiplying the straight-time
28 hourly rate applicable at the time of the accident, by the customary num-
29 ber of working hours constituting an ordinary day in the character of work
30 involved; (ii) the straight-time weekly rate shall be found by multiplying
31 the daily money rate by the number of days and half days that the em-
32 ployee usually and regularly worked, or was expected to work, but 40
33 hours shall constitute the minimum hours for computing the wage of a
34 full-time hourly employee, unless the employer's regular and customary
35 workweek is less than 40 hours, in which case, the number of hours in
36 such employer's regular and customary workweek shall govern; (iii) the
37 average weekly overtime of the employee shall be the total amount earned
38 by the employee in excess of the amount of straight-time money earned
39 by the employee during the 26 calendar weeks immediately preceding
40 the date of the accident, or during the actual number of such weeks the
41 employee was employed if less than 26 weeks, divided by the number of
42 such weeks; and (iv) the average gross weekly wage of a full-time hourly
43 employee shall be the total of the straight-time weekly rate, the average

1 weekly overtime and the weekly average of any additional compensation.
2 (5) If at the time of the accident the money rate is fixed by the output
3 of the employee, on a commission or percentage basis, on a flat-rate basis
4 for performance of a specified job, or on any other basis where the money
5 rate is not fixed by the week, month, year or hour, and if the employee
6 has been employed by the employer at least one calendar week imme-
7 diately preceding the date of the accident, the average gross weekly wage
8 shall be the gross amount of money earned during the number of calendar
9 weeks so employed, up to a maximum of 26 calendar weeks immediately
10 preceding the date of the accident, divided by the number of weeks em-
11 ployed, or by 26 as the case may be, plus the average weekly value of any
12 additional compensation and the value of the employee's average weekly
13 overtime computed as provided in paragraph (4) of this subsection. If the
14 employee had been in the employment of the employer less than one
15 calendar week immediately preceding the accident, the average gross
16 weekly wage shall be determined by the administrative law judge based
17 upon all of the evidence and circumstances, including the usual wage for
18 similar services paid by the same employer, or if the employer has no
19 employees performing similar services, the usual wage paid for similar
20 services by other employers. The average gross weekly wage so deter-
21 mined shall not exceed the actual average gross weekly wage the em-
22 ployee was reasonably expected to earn in the employee's specific em-
23 ployment, including the average weekly value of any additional
24 compensation and the value of the employee's average weekly overtime
25 computed as provided in paragraph (4) of this subsection. In making any
26 computations under this paragraph (5), workweeks during which the em-
27 ployee was on vacation, leave of absence, sick leave or was absent the
28 entire workweek because of illness or injury shall not be considered.

29 (6) (A) The average gross weekly wage of a person serving on a vol-
30 unteer basis as a duly authorized law enforcement officer, ambulance
31 attendants and drivers as provided in subsection (b) of K.S.A. 44-508, and
32 amendments thereto, firefighter or members of regional emergency med-
33 ical response teams *or members of a Kansas emergency response force* as
34 provided in K.S.A. 48-928, and amendments thereto, who receives no
35 wages for such services, or who receives wages which are substantially
36 less than the usual wages paid for such services by comparable employers
37 to employees who are not volunteers, shall be computed on the basis of
38 the dollar amount closest to, but not exceeding, 112.5% of the state av-
39 erage weekly wage.

40 (B) The average gross weekly wage of any person performing com-
41 munity service work shall be deemed to be \$37.50.

42 (C) The average gross weekly wage of a volunteer member of the
43 Kansas department of civil air patrol officially engaged in the performance

1 of functions specified in K.S.A. 48-3302, and amendments thereto, shall
2 be deemed to be \$476.38. Whenever the rates of compensation of the
3 pay plan for persons in the classified service under the Kansas civil service
4 act are increased for payroll periods chargeable to fiscal years commencing
5 after June 30, 1988, the average gross weekly wage which is deemed
6 to be the average gross weekly wage under the provisions of this subsection
7 for a volunteer member of the Kansas department of civil air patrol
8 shall be increased by an amount, adjusted to the nearest dollar, computed
9 by multiplying the average of the percentage increases in all monthly steps
10 of such pay plan by the average gross weekly wage deemed to be the
11 average gross weekly wage of such volunteer member under the provisions
12 of this subsection prior to the effective date of such increase in the
13 rates of compensation of the pay plan for persons in the classified service
14 under the Kansas civil service act.

15 (D) The average weekly wage of any other volunteer under the work-
16 ers compensation act, who receives no wages for such services, or who
17 receives wages which are substantially less than the usual wages paid for
18 such services by comparable employers to employees who are not vol-
19 unteers, shall be computed on the basis of the usual wages paid by the
20 employer for such services to employees who are not volunteers, or, if
21 the employer has no employees performing such services for wages who
22 are not volunteers, the average gross weekly wage shall be computed on
23 the basis of the usual wages paid for such services by comparable em-
24 ployers to employees who are not volunteers. Volunteer employment is
25 not presumed to be full time employment.

26 (7) The average gross weekly wage of an employee who sustains an
27 injury by accident arising out of and in the course of multiple employ-
28 ment, in which such employee performs the same or a very similar type
29 of work on a part-time basis for each of two or more employers, shall be
30 the total average gross weekly wage of such employee paid by all the
31 employers in such multiple employment. The total average gross weekly
32 wage of such employee shall be the total amount of the individual average
33 gross weekly wage determinations under this section for each individual
34 employment of such multiple employment.

35 (8) In determining an employee's average gross weekly wage with
36 respect to the employer against whom claim for compensation is made,
37 no money or additional compensation paid to or received by the employee
38 from such employer, or from any source other than from such employer,
39 shall be included as wages, except as provided in this section. No wages,
40 other compensation or benefits of any type, except as provided in this
41 section, shall be considered or included in determining the employee's
42 average gross weekly wage.

43 (c) In any case, the average yearly wage shall be found by multiplying

1 the average gross weekly wage, as determined in subsection (b), by 52.

2 (d) The state's average weekly wage for any year shall be the average
3 weekly wage paid to employees in insured work subject to Kansas em-
4 ployment security law as determined annually by the secretary of labor
5 as provided in K.S.A. 44-704 and amendments thereto.

6 (e) Members of a labor union or other association who perform serv-
7 ices in behalf of the labor union or other association and who are not paid
8 as full-time employees of the labor union or other association and who
9 are injured or suffer occupational disease in the course of the perform-
10 ance of duties in behalf of the labor union or other association shall re-
11 cover compensation benefits under the workers compensation act from
12 the labor union or other association if the labor union or other association
13 files an election with the director to bring its members who perform such
14 services under the coverage of the workers compensation act.

15 The average weekly wage for the purpose of this subsection shall be
16 based on what the employee would earn in the employee's general oc-
17 cupation if at the time of the injury the employee had been performing
18 work in the employee's general occupation. The insurance coverage shall
19 be furnished by the labor union or other association.

20 Sec. 3. K.S.A. 2007 Supp. 44-577 is hereby amended to read as fol-
21 lows: 44-577. (a) All claims for compensation under the workers com-
22 pensation act against any state agency for claims arising on and after July
23 1, 1974, and claims for compensation remaining from the self-insurance
24 program which existed prior to July 1, 1974, for institutional employees
25 of the division of mental health and retardation services of the department
26 of social and rehabilitation services shall be made against the state workers
27 compensation self-insurance fund. Such claims shall be served upon the
28 secretary of administration in the secretary's capacity as administrator of
29 the state workers compensation self-insurance fund in the manner pro-
30 vided for claims against other employers under the workers compensation
31 act. The chief attorney for the department of administration, or another
32 attorney of the department of administration designated by the chief at-
33 torney, shall represent and defend the state workers compensation self-
34 insurance fund in all proceedings under the workers compensation act.

35 (b) The secretary of administration shall investigate, or cause to be
36 investigated, each claim for compensation against the state workers com-
37 pensation self-insurance fund. For the purposes of such investigations,
38 the secretary of administration is authorized to obtain expert medical
39 advice regarding the injuries, occupational diseases and disabilities in-
40 volved in such claims. If, based upon such investigation and any other
41 available information, the secretary of administration finds that there is
42 no material dispute as to any issue involved in the claim, that the claim
43 is valid and that the claim should be settled by agreement, the secretary

1 of administration may proceed to enter into such an agreement with the
2 claimant, for the state workers compensation self-insurance fund. Any
3 such agreement may provide for lump-sum settlements subject to ap-
4 proval by the director and all such agreements shall be filed in the office
5 of the director for approval as provided in K.S.A. 44-527 and amendments
6 thereto. All other claims for compensation against such fund shall be paid
7 in accordance with the workers compensation act pursuant to final awards
8 or orders of an administrative law judge or the board or pursuant to orders
9 and findings of the director under the workers compensation act.

10 (c) For purposes of the workers compensation act, a volunteer mem-
11 ber of a regional emergency medical response team *or of a Kansas emer-*
12 *gency response force* as provided in K.S.A. 48-928, and amendments
13 thereto, shall be considered a person in the service of the state in con-
14 nection with authorized training and upon activation for emergency re-
15 sponse, except when such duties arise in the course of employment or as
16 a volunteer for an employer other than the state.

17 Sec. 4. K.S.A. 48-915 is hereby amended to read as follows: 48-915.

18 (a) Neither the state nor any political subdivision of the state, nor the
19 agents or representatives of the state or any political subdivision thereof,
20 shall be liable for personal injury or property damage sustained by any
21 person appointed or acting as a volunteer worker, or member of any
22 agency, engaged in emergency management activities. The foregoing shall
23 not affect the right of any person to receive benefits or compensation to
24 which such person otherwise may be entitled under the workers com-
25 pensation law or any pension law or any act of congress.

26 (b) Whenever a proclamation is issued declaring a state of disaster
27 emergency pursuant to K.S.A. 48-924, and amendments thereto, neither
28 the state nor any political subdivision of the state nor, except in cases of
29 willful misconduct, gross negligence or bad faith, the employees, agents,
30 or representatives of the state or any political subdivision thereof, nor any
31 volunteer worker, or member of any agency, engaged in any emergency
32 management activities, complying with or reasonably attempting to com-
33 ply with this act, or any proclamation, order, rule and regulation prom-
34 ulgated pursuant to the provisions of this act, or pursuant to any ordinance
35 relating to blackout or other precautionary measures enacted by any po-
36 litical subdivision of the state, shall be liable for the death of or injury to
37 persons, or for damage to property, as a result of any such activity per-
38 formed during the existence of such state of disaster emergency or other
39 such state of emergency.

40 (c) Any member of a regional medical emergency response team *or*
41 *any member of a Kansas emergency response force* created under the
42 provisions of K.S.A. 48-928, and amendments thereto, shall be deemed
43 a state employee under the Kansas tort claims act, K.S.A. 75-6101, *et seq.*,

1 and amendments thereto.

2 Sec. 5. K.S.A. 48-928 is hereby amended to read as follows: 48-928.
3 In addition to other duties imposed under this act, the division of emer-
4 gency management shall:

5 (a) Determine the requirements of the state and the counties and
6 cities thereof for food, clothing and other necessities in event of a disaster;

7 (b) procure and distribute about the state, such supplies, medicines,
8 materials and equipment which are deemed necessary for use during a
9 disaster;

10 (c) promulgate standards and requirements for local and interjurisd-
11 ictional disaster emergency plans including adequate provisions for the
12 rendering and receipt of mutual aid;

13 (d) periodically examine or review and approve local and interjurisd-
14 ictional disaster emergency plans which are in accordance with the stan-
15 dards and requirements promulgated therefor;

16 (e) establish and operate training or public information programs re-
17 lating to emergency management, and assist counties and cities, the dis-
18 aster agencies of such counties or cities and interjurisdictional disaster
19 agencies, in the establishment and operation of such programs;

20 (f) make surveys of industries, resources and facilities within the state,
21 both public and private, as are necessary to carry out the purposes of this
22 act;

23 (g) plan and make arrangements for the availability and use of any
24 private facilities, services and property for emergency management activ-
25 ities and, if necessary and if in fact used, provide for payment for such
26 use under terms and conditions agreed upon;

27 (h) establish a register of persons with types of training and skills
28 important in emergency management activities;

29 (i) establish a register of mobile and construction equipment and
30 temporary housing available for use in a disaster;

31 (j) prepare drafts of orders or proclamations for the governor as nec-
32 essary or appropriate in coping with disasters;

33 (k) serve, for all those agencies which regulate any matter affecting
34 the transportation of hazardous materials:

35 (1) As the coordinating and supervising state agency; and

36 (2) to provide continuing liaison between such state agencies;

37 (l) establish an informational system under which state agencies shall
38 notify the division of emergency management;

39 (m) cooperate with the federal government and any public or private
40 agency or entity in achieving any purpose of this act and in implementing
41 programs for disaster prevention, preparation response and recovery;

42 (n) under the direction of the adjutant general, develop a regional
43 emergency management system which includes the use of regional co-

1 ordinator that provide training and preparation of state, county, city and
2 interjurisdictional disaster agencies to prevent, respond to, mitigate and
3 recover from emergency and disaster situations;

4 (o) under the direction of the adjutant general, implement the use of
5 an incident management system during emergency and disaster situations
6 by all state, county, city and interjurisdictional disaster agencies which
7 respond to such emergency or disaster situations;

8 (p) develop and administer a program to provide financial assistance
9 to cities, counties or interjurisdictional disaster agencies for the devel-
10 opment and implementation of a terrorism preparedness program. Such
11 program shall provide criteria for receiving such financial assistance and
12 such other conditions as the division may deem necessary; ~~and~~

13 (q) develop, implement and administer, with the assistance and ad-
14 vice of the commission on emergency planning and response, a plan for
15 regional emergency medical response teams; *and*

16 (r) *develop, implement and administer, with the assistance and advice*
17 *of the commission on emergency planning and response, a plan for a*
18 *Kansas emergency response force.*

19 Sec. 6. K.S.A. 65-5722 is hereby amended to read as follows: 65-
20 5722. The commission on emergency planning and response shall have
21 the following functions, powers and duties:

22 (a) Carry out all requirements of the federal emergency planning and
23 community right-to-know act of 1986, 42 U.S.C. 11001-11005, and
24 amendments thereto, hereinafter called the "federal act";

25 (b) provide assistance and advice in establishing policy for the coor-
26 dination of state agency activities relating to emergency training, prepar-
27 edness, planning, and response;

28 (c) provide assistance and advice in establishing policy and proce-
29 dures for chemical release reporting and prevention, transportation, man-
30 ufacture, storage, handling, and use;

31 (d) facilitate and advise the division of emergency management, the
32 adjutant general, and others in the preparation and implementation of all
33 emergency plans prepared by state agencies;

34 (e) facilitate and advise the division of emergency management, the
35 adjutant general, and others in the preparation and implementation of
36 statewide, interjurisdictional, and local emergency plans prepared in ac-
37 cordance with state and federal law;

38 (f) designate, and revise as necessary, the boundaries of emergency
39 planning districts in accordance with the federal act;

40 (g) approve the local emergency planning committee for each emer-
41 gency planning district;

42 (h) review reports about responses to disaster emergencies and make
43 recommendations to the appropriate parties involved in the response con-

- 1 cerning improved prevention, mitigation, and preparedness;
- 2 (i) provide assistance and advice to the division of emergency man-
3 agement and the adjutant general in coordinating, advising, or planning
4 tasks related to community right-to-know reporting, toxic chemical re-
5 lease reporting, management of hazardous substances, emergency plan-
6 ning and preparedness for all types of hazards and emergency planning
7 and preparedness for all types of disasters, as defined in K.S.A. 48-904,
8 and amendments thereto;
- 9 (j) recommend procedures to integrate, as appropriate, hazardous
10 substance response planning under 42 U.S.C. 11001-11005, federal con-
11 tingency planning under 33 U.S.C. 1321 and other federal laws as appli-
12 cable to hazardous substance discharges, and state, regional, and local
13 planning;
- 14 (k) provide recommendations and advice to the adjutant general and
15 the secretary of health and environment regarding the adoption of reg-
16 ulations as authorized to carry out the purposes of all state hazard pre-
17 paredness and planning laws and the federal act, 42 U.S.C. 11001-11005;
- 18 (l) approve the fees established by rules and regulations of the ad-
19 jutant general to cover all or part of the total operational costs of imple-
20 menting the provisions of the federal act; and
- 21 (m) provide assistance and advice to the division of emergency man-
22 agement and the adjutant general in developing and implementing a plan
23 for regional emergency medical response teams; *and*
- 24 (n) *provide assistance and advice to the division of emergency man-*
25 *agement and the adjutant general in developing and implementing a plan*
26 *for a Kansas emergency response force.*
- 27 Sec. 7. K.S.A. 2007 Supp. 75-6102 is hereby amended to read as
28 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amend-
29 ments thereto, unless the context clearly requires otherwise:
- 30 (a) “State” means the state of Kansas and any department or branch
31 of state government, or any agency, authority, institution or other instru-
32 mentality thereof.
- 33 (b) “Municipality” means any county, township, city, school district
34 or other political or taxing subdivision of the state, or any agency, au-
35 thority, institution or other instrumentality thereof.
- 36 (c) “Governmental entity” means state or municipality.
- 37 (d) “Employee” means any officer, employee, servant or member of
38 a board, commission, committee, division, department, branch or council
39 of a governmental entity, including elected or appointed officials and
40 persons acting on behalf or in service of a governmental entity in any
41 official capacity, whether with or without compensation and a charitable
42 health care provider. Employee includes any steward or racing judge ap-
43 pointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless

1 of whether the services of such steward or racing judge are rendered
2 pursuant to contract as an independent contractor, but does not otherwise
3 include any independent contractor under contract with a governmental
4 entity except (1) employees of the United States marshal's service en-
5 gaged in the transportation of inmates on behalf of the secretary of cor-
6 rections, (2) a person who is an employee of a nonprofit independent
7 contractor, other than a municipality, under contract to provide educa-
8 tional or vocational training to inmates in the custody of the secretary of
9 corrections and who is engaged in providing such service in an institution
10 under the control of the secretary of corrections provided that such em-
11 ployee does not otherwise have coverage for such acts and omissions
12 within the scope of their employment through a liability insurance con-
13 tract of such independent contractor; (3) a person who is an employee or
14 volunteer of a nonprofit program, other than a municipality, who has
15 contracted with the commissioner of juvenile justice or with another non-
16 profit program that has contracted with the commissioner of juvenile
17 justice to provide a juvenile justice program for juvenile offenders in a
18 judicial district provided that such employee or volunteer does not oth-
19 erwise have coverage for such acts and omissions within the scope of their
20 employment or volunteer activities through a liability insurance contract
21 of such nonprofit program; and (4) a person who contracts with the Kan-
22 sas guardianship program to provide services as a court-appointed guard-
23 ian or conservator. "Employee" also includes an employee of an indigent
24 health care clinic. "Employee" also includes former employees for acts
25 and omissions within the scope of their employment during their former
26 employment with the governmental entity. "Employee" also includes any
27 member of a regional medical emergency response team *or a Kansas*
28 *emergency response force*, created under the provisions of K.S.A. 48-928,
29 and amendments thereto, in connection with authorized training or upon
30 activation for an emergency response. "Employee" does not include an
31 individual or entity for actions within the scope of K.S.A. 60-3614, and
32 amendments thereto.

33 (e) "Charitable health care provider" means a person licensed by the
34 state board of healing arts as an exempt licensee or a federally active
35 licensee, a person issued a limited permit by the state board of healing
36 arts, a physician assistant licensed by the state board of healing arts or a
37 health care provider as the term "health care provider" is defined under
38 K.S.A. 65-4921, and amendments thereto, who has entered into an agree-
39 ment with:

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

- 1 faith assumption that such person meets the definition of medically in-
2 digent person as defined by this section or to a person receiving medical
3 assistance from the programs operated by the department of social and
4 rehabilitation services, and who is considered an employee of the state of
5 Kansas under K.S.A. 75-6120, and amendments thereto;
- 6 (2) the secretary of health and environment and who, pursuant to
7 such agreement, gratuitously renders professional services in conducting
8 children's immunization programs administered by the secretary;
- 9 (3) a local health department or indigent health care clinic, which
10 renders professional services to medically indigent persons or persons
11 receiving medical assistance from the programs operated by the depart-
12 ment of social and rehabilitation services gratuitously or for a fee paid by
13 the local health department or indigent health care clinic to such provider
14 and who is considered an employee of the state of Kansas under K.S.A.
15 75-6120, and amendments thereto. Professional services rendered by a
16 provider under this paragraph (3) shall be considered gratuitous notwith-
17 standing fees based on income eligibility guidelines charged by a local
18 health department or indigent health care clinic and notwithstanding any
19 fee paid by the local health department or indigent health care clinic to
20 a provider in accordance with this paragraph (3); or
- 21 (4) the secretary of health and environment to provide dentistry serv-
22 ices defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental
23 hygienist services defined by K.S.A. 65-1456, and amendments thereto,
24 that are targeted, but are not limited to medically indigent persons, and
25 are provided on a gratuitous basis at a location sponsored by a not-for-
26 profit organization that is not the dentist or dental hygienist office loca-
27 tion. Except that such dentistry services and dental hygienist services shall
28 not include "oral and maxillofacial surgery" as defined by Kansas admin-
29 istrative regulation 71-2-2, or use sedation or general anesthesia that re-
30 sult in "deep sedation" or "general anesthesia" as defined by Kansas ad-
31 ministrative regulation 71-5-1.
- 32 (f) "Medically indigent person" means a person who lacks resources
33 to pay for medically necessary health care services and who meets the
34 eligibility criteria for qualification as a medically indigent person estab-
35 lished by the secretary of health and environment under K.S.A. 75-6120,
36 and amendments thereto.
- 37 (g) "Indigent health care clinic" means an outpatient medical care
38 clinic operated on a not-for-profit basis which has a contractual agreement
39 in effect with the secretary of health and environment to provide health
40 care services to medically indigent persons.
- 41 (h) "Local health department" shall have the meaning ascribed to
42 such term under K.S.A. 65-241, and amendments thereto.
- 43 (i) "Fire control, fire rescue or emergency medical services equip-

1 ment” means any vehicle, firefighting tool, protective clothing, breathing
2 apparatus and any other supplies, tools or equipment used in firefighting
3 or fire rescue or in the provision of emergency medical services.

4 Sec. 8. K.S.A. 48-915, 48-928 and 65-5722 and K.S.A. 2007 Supp.
5 44-510h, 44-511, 44-577 and 75-6102 are hereby repealed.

6 Sec. 9. This act shall take effect and be in force from and after its
7 publication in the statute book.