

1 SB289  
2 210936-1  
3 By Senator Albritton  
4 RFD: Judiciary  
5 First Read: 02-MAR-21

SYNOPSIS: Under existing law, the recovery of damages under any judgment against a governmental entity is limited to a certain amount of damages depending upon the type of claim and the number of injured persons involved.

Also under existing law, certain regional mental health programs and facilities are authorized to incorporate as a public corporation with powers prescribed by law, including the power to provide services such as inpatient, outpatient, partial hospitalization, emergency care, residential care, and aftercare for persons combating all forms of mental or emotional illnesses or disabilities, including alcoholism, drug addiction, epilepsy, and intellectual disability. The public corporations are exempted from state taxation by law.

This bill would include those regional mental health programs and facilities within the meaning of the term governmental entity to provide

1           those programs and facilities with a statutory  
2           limitation of liability.

3  
4                   A BILL  
5                   TO BE ENTITLED  
6                   AN ACT

7  
8           Relating to tort claims and judgments against local  
9           governmental entities; to amend Section 11-93-1, Code of  
10          Alabama 1975, to include certain public mental health programs  
11          and facilities within the limitation of liability provided for  
12          governmental entities.

13       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14               Section 1. Section 11-93-1, Code of Alabama 1975, is  
15          amended to read as follows:

16               "§11-93-1.

17               "For the purposes of this chapter, the following  
18          terms shall have the meanings ascribed to them by this  
19          section:

20               "(1) GOVERNMENTAL ENTITY. Any incorporated  
21          municipality, any county, and any department, agency, board,  
22          or commission of any municipality or county, municipal or  
23          county public corporations, and any ~~such~~ instrumentality or  
24          instrumentalities acting jointly. ~~"Governmental entity"~~ The  
25          term shall also include county public school boards, municipal  
26          public school boards and city-county school boards when ~~such~~  
27          those boards do not operate as functions of the State of

1 Alabama. ~~"Governmental entity"~~ The term shall also mean county  
2 or city hospital boards when ~~such~~ those boards are  
3 instrumentalities of the municipality or county or organized  
4 pursuant to authority from a municipality or county. The term  
5 shall also include public corporations formed under Chapter 51  
6 of Title 22.

7 "(2) EMPLOYEE. An officer, official, employee, or  
8 servant of a governmental entity, including elected or  
9 appointed officials, and persons acting on behalf of any  
10 governmental entity in any official capacity, temporarily or  
11 permanently, in the service of the governmental entity,  
12 whether with or without compensation, but the term ~~"employee"~~  
13 ~~shall~~ does not mean a person or other legal entity while  
14 acting in the capacity of an independent contractor under  
15 contract to the governmental entity to which this chapter  
16 applies in the event of a claim.

17 "(3) BODILY INJURY. Any bodily injury, sickness,  
18 disease, or death sustained by any person or caused by an  
19 occurrence.

20 "(4) PROPERTY DAMAGE. Injury or destruction to  
21 tangible property caused by an occurrence.

22 "(5) CLAIM. Any claim against a governmental entity,  
23 for money damages only, which any person is legally entitled  
24 to recover as damages caused by bodily injury or property  
25 damage caused by a negligent or wrongful act or omission  
26 committed by any employee of the governmental entity while  
27 acting within the scope of his or her employment, under

1       circumstances where the governmental entity, if a private  
2       person, would be liable to the claimant for such damages under  
3       the laws of the State of Alabama."

4               Section 2. This act shall become effective on the  
5       first day of the third month following its passage and  
6       approval by the Governor, or its otherwise becoming law.