
A BILL FOR AN ACT

RELATING TO PROFESSIONALLY LICENSED OR CERTIFIED GOVERNMENT
EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the recent decision
2 in Slingluff v. State, 317 P.3d 683 (Haw. Ct. App. 2013),
3 created a distinction between medical discretion and
4 governmental discretion for physicians who are employed by the
5 State of Hawaii, unnecessarily putting state-employed
6 professionals, who are acting in the course and scope of their
7 employment, at personal monetary risk.

8 Therefore, the purpose of this Act is to: mitigate that
9 personal risk by recognizing what is inherent in the State Tort
10 Liability Act; and clarify that irrespective of whether a
11 professionally licensed or certified employee of the State
12 exercises governmental discretion or the employee's professional
13 judgment while acting within the scope of the employee's office
14 or employment, the State, as provided in sections 662-2 and 662-
15 3, Hawaii Revised Statutes, has waived its immunity from
16 liability and shall be exclusively liable for all tort actions
17 on claims for money damages for injury or loss of property or



1 personal injury or death caused by the negligent or wrongful act
2 or omission of any and all state employees, as defined in the
3 State Tort Liability Act, including professionally licensed or
4 certified employees of the State.

5 The legislature finds that the provisions of this Act are
6 necessary and appropriate to enable the State to continue to
7 attract and hire employees who are professionally licensed or
8 certified to perform services that are essential to good
9 government.

10 SECTION 2. Section 662-14, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§662-14 **Exclusiveness of remedy.** (a) The authority of
13 the State or any state agency to sue and be sued in its own name
14 shall not be construed to authorize any other actions against
15 the State or such agency on claims [~~for torts of its employees,~~]
16 cognizable under this chapter, and the rights and remedies
17 provided by this chapter and section 661-11 shall be exclusive.

18 (b) The remedy against the State provided by this chapter
19 and section 661-11 for injury or loss of property, or personal
20 injury or death, arising or resulting from the negligent or
21 wrongful act or omission of any professionally licensed or



1 certified employee of the State while acting within the scope of
2 the employee's office or employment shall be exclusive of any
3 other civil action or proceeding for money damages by reason of
4 the same subject matter against the professionally licensed or
5 certified employee whose act or omission gave rise to the claim
6 or against the estate of such employee. Any civil action or
7 proceeding for money damages arising out of or relating to the
8 same subject matter against the employee or the employee's
9 estate shall be precluded without regard to when the act or
10 omission occurred. When an employee is named in an individual
11 capacity, the State may notify all parties in writing that the
12 State is invoking exclusive liability; and the action or
13 proceeding shall thereafter proceed against the State alone."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2050, and
17 shall be effective in all lawsuits filed as of and after its
18 approval.

19



Report Title:

Professionally Licensed or Certified Government Employees; Tort Liability; Exclusive Liability

Description:

Clarifies that the State waives its immunity from liability and shall be exclusively liable for all tort actions on claims for money damages for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any and all state employees, including professionally licensed or certified employees of the State. Effective 7/1/2050. (SD1)

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