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# 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 professionally licensed or certified employees of  
3 the State.

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

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

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

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



1 the employee's office or employment shall be exclusive. Any  
2 civil action or proceeding for money damages arising out of or  
3 relating to the same subject matter against the employee or the  
4 employee's estate shall be precluded without regard to when the  
5 act or omission occurred. When an employee is named in an  
6 individual capacity, the State may notify all parties in writing  
7 that the State is invoking exclusive liability; and the action  
8 or proceeding shall thereafter proceed against the State alone."

9 SECTION 3. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

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

**Description:**

Clarifies that the State shall be exclusively liable for claims for injury or loss of property, or personal injury or death, resulting from the negligent or wrongful act or omission of any professionally licensed or certified employee of the State while acting within the scope of the employee's office or employment. Establishes that any civil action or proceeding for money damages arising out of or related to the same subject matter against the employee shall be precluded. Effective 7/1/2050.  
(SD2)

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