

## CHAPTER 80

## LIABILITY PROTECTION FOR STATE EMPLOYEES

H. F. 799

AN ACT relating to liability protection for state employees.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section twenty-five A point two (25A.2), subsection  
2 three (3), Code 1975, is amended to read as follows:

3 3. "Employee of the state" includes any one or more officers,  
4 *agents*, or employees of the state or any state agency, *including mem-*  
5 *bers of the general assembly*, and persons acting on behalf of the state  
6 or any state agency in any official capacity, temporarily or permanent-  
7 ly in the service of the state of Iowa, whether with or without compen-  
8 sation. Professional personnel, including medical doctors, osteopathic  
9 physicians and surgeons, osteopathic physicians, optometrists and den-  
10 tists, who render services to patients and inmates of state institutions  
11 under the jurisdiction of the department of social services are to be  
12 considered employees of the state, whether such personnel are em-  
13 ployed on a full-time basis or render such services on a part-time basis  
14 on a fee schedule or arrangement, *but shall not include any contrac-*  
15 *tor doing business with the state.*

1 SEC. 2. Section twenty-five A point two (25A.2), subsection five (5),  
2 Code 1975, is amended by striking the section\* and inserting in lieu  
3 thereof the following:

4 5. "Claim" means:  
5 a. Any claim against the state of Iowa for money only, on account  
6 of damage to or loss of property or on account of personal injury or  
7 death, caused by the negligent or wrongful act or omission of any em-  
8 ployee of the state while acting within the scope of his office or em-  
9 ployment, under circumstances where the state, if a private person,  
10 would be liable to the claimant for such damage, loss, injury, or death.  
11 b. Any claim against an employee of the state for money only, on  
12 account of damage to or loss of property or on account of personal in-  
13 jury or death, caused by the negligent or wrongful act or omission, ex-  
14 cept an act of malfeasance in office or willful and wanton conduct, of  
15 any employee of the state while acting within the scope of his office or  
16 employment.

1 SEC. 3. Section twenty-five A point four (25A.4), Code 1975, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. If suit is commenced against an employee of the  
4 state pursuant to the provisions of this chapter, an original notice shall  
5 be served upon the employee in addition to the requirements of this  
6 section. The employee of the state shall have the same period to enter  
7 a general or special appearance as the state.

1 SEC. 4. Section twenty-five A point eight (25A.8), Code 1975, is  
2 amended to read as follows:

3 **25A.8 Judgment as bar.** The final judgment in any suit under  
4 this chapter shall constitute a complete bar to any action by the claim-  
5 ant, by reason of the same subject matter, against *the state* or the em-  
6 ployee of the state whose act or omission gave rise to the claim.  
7 However, this section shall not apply if the court rules that the claim is  
8 not permitted under this chapter.

\*According to enrolled Act

1 SEC. 5. Section twenty-five A point thirteen (25A.13), unnumbered  
2 paragraph one (1), Code 1975, is amended to read as follows:

3 Every claim and suit ~~against the state~~ permitted under this chapter  
4 shall be forever barred, unless within two years after such claim ac-  
5 crued, the claim is made in writing to the state appeal board under this  
6 chapter. The time to begin a suit under this chapter shall be extended  
7 for a period of six months from the date of mailing of notice to the  
8 claimant by the state appeal board as to the final disposition of the  
9 claim or from the date of withdrawal of the claim from the state ap-  
10 peal board under section 25A.5, if the time to begin suit would other-  
11 wise expire before the end of such period.

1 SEC. 6. Section twenty-five A point fourteen (25A.14), unnumbered  
2 paragraph one (1), Code 1975, is amended to read as follows:

3 The provisions of this chapter shall not apply *with respect to any*  
4 *claim against the state*, to:

1 SEC. 7. Chapter twenty-five A (25A), Code 1975, is amended by  
2 adding the following new sections:

3 **NEW SECTION. Officers and employees defended.** The state shall  
4 defend any employee of the state, whether elected or appointed and,  
5 except in cases of malfeasance in office, willful and unauthorized inju-  
6 ry to persons or property, or willful and wanton conduct, shall save  
7 harmless and indemnify such employees of the state against any tort  
8 claim or demand, whether groundless or otherwise, arising out of an al-  
9 leged act or omission occurring within the scope of their employment  
10 or duties.

11 **NEW SECTION.** The state shall defend, indemnify and hold harmless  
12 an employee of the state in any action commenced in federal court un-  
13 der section one thousand nine hundred eighty-three (1983), Title forty-  
14 two (42), United States Code, against the employee for acts of the em-  
15 ployee while acting in the scope of employment. If the acts or omis-  
16 sions of the employee, upon which the action is based, are within the  
17 exceptions to claim as defined in section twenty-five A point two  
18 (25A.2), subsection five (5), paragraph b, of the Code, the state shall  
19 not indemnify or hold harmless the employee.

Approved June 30, 1975

## CHAPTER 81

### ELECTION PROCEDURES

H. F. 700

AN ACT relating to procedures for preparing for, giving notice of, conducting and canvassing elections, to the election of presidential electors, and to the registration of voters, and prescribing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section two point twenty-seven (2.27), Code 1975, as  
2 amended by the Acts of the Sixty-sixth General Assembly, 1975 Ses-  
3 sion, House File one hundred sixty (160), section one (1), is amended to  
4 read as follows:

5 **2.27 Canvass of votes for governor.** The general assembly shall  
6 meet in joint session on the same day the assembly first convenes in