

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20136(a)	42 U.S.C. 2458(a).	Pub. L. 85-568, title III, §306, July 29, 1958, 72 Stat. 437.
20136(b)	42 U.S.C. 2458(b) (1st sentence).	
20136(c)	42 U.S.C. 2458(b) (par. (1) of last sentence).	
20136(d)	42 U.S.C. 2458(b) (par. (2) of last sentence).	

In subsections (c) and (d), the words “No award may be made under subsection (a)” are substituted for “No award may be made under subsection (a) with respect to any contribution” for clarity and to eliminate unnecessary words.

§ 20137. Malpractice and negligence suits against United States

(a) **EXCLUSIVE REMEDY.**—The remedy against the United States provided by sections 1346(b) and 2672 of title 28, for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Administration in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person’s duties or employment therein or therefor shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or the estate of such person) whose act or omission gave rise to the action or proceeding.

(b) **ATTORNEY GENERAL TO DEFEND ANY CIVIL ACTION OR PROCEEDING FOR MALPRACTICE OR NEGLIGENCE.**—The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person’s immediate superior or to whomever was designated by the Administrator to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Administrator.

(c) **REMOVAL OF ACTIONS.**—Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person’s duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, and all references thereto. Should a district court of the

United States determine, on a hearing on a motion to remand held before a trial on the merits, that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available against the United States, the case shall be remanded to the State court.

(d) **COMPROMISE OR SETTLEMENT OF CLAIMS.**—The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) **APPLICABILITY OF OTHER PROVISIONS OF LAW.**—For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any cause of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

(f) **LIABILITY INSURANCE FOR PERSONS ASSIGNED TO FOREIGN COUNTRIES OR NON-FEDERAL AGENCIES.**—The Administrator or the Administrator’s designee may, to the extent that the Administrator or the designee deems appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person’s negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person’s duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.

(Pub. L. 111-314, § 3, Dec. 18, 2010, 124 Stat. 3343.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20137	42 U.S.C. 2458a.	Pub. L. 85-568, title III, §307, as added Pub. L. 94-464, §3, Oct. 8, 1976, 90 Stat. 1988.

In subsection (a), the word “hereafter” is omitted as unnecessary.

In subsection (b), in the last sentence, commas are added after “brought” and “Attorney General” for clarity.

In subsection (e), the words “wrongful act or omission” are substituted for “wrongful act of omission” to correct an error in the law.

§ 20138. Insurance and indemnification

(a) **DEFINITIONS.**—In this section:

(1) **SPACE VEHICLE.**—The term “space vehicle” means an object intended for launch, launched, or assembled in outer space, including the space shuttle and other components of a space transportation system, together with related equipment, devices, components, and parts.

(2) **THIRD PARTY.**—The term “third party” means any person who may institute a claim against a user for death, bodily injury, or loss of or damage to property.

(3) **USER.**—The term “user” includes anyone who enters into an agreement with the Admin-