

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3337

By: Fugate

AS INTRODUCED

An Act relating to officers; amending 51 O.S. 2011, Section 155, as last amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2019, Section 155), which relates to the Governmental Tort Claims Act; limiting liability for use of public property for recreation; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 51 O.S. 2011, Section 155, as last amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2019, Section 155), is amended to read as follows:

Section 155. The state or a political subdivision shall not be liable if a loss or claim results from:

1. Legislative functions;
2. Judicial, quasi-judicial, or prosecutorial functions, other than claims for wrongful criminal felony conviction resulting in imprisonment provided for in Section 154 of this title;
3. Execution or enforcement of the lawful orders of any court;

1 4. Adoption or enforcement of or failure to adopt or enforce a
2 law, whether valid or invalid, including, but not limited to, any
3 statute, charter provision, ordinance, resolution, rule, regulation
4 or written policy;

5 5. Performance of or the failure to exercise or perform any act
6 or service which is in the discretion of the state or political
7 subdivision or its employees;

8 6. Civil disobedience, riot, insurrection or rebellion or the
9 failure to provide, or the method of providing, police, law
10 enforcement or fire protection;

11 7. Any claim based on the theory of attractive nuisance;

12 8. Snow or ice conditions or temporary or natural conditions on
13 any public way or other public place due to weather conditions,
14 unless the condition is affirmatively caused by the negligent act of
15 the state or a political subdivision;

16 9. Entry upon any property where that entry is expressly or
17 implied authorized by law;

18 10. Natural conditions of property of the state or political
19 subdivision;

20 11. Assessment or collection of taxes or special assessments,
21 license or registration fees, or other fees or charges imposed by
22 law;

23 12. Licensing powers or functions including, but not limited
24 to, the issuance, denial, suspension or revocation of or failure or

1 refusal to issue, deny, suspend or revoke any permit, license,
2 certificate, approval, order or similar authority;

3 13. Inspection powers or functions, including failure to make
4 an inspection, review or approval, or making an inadequate or
5 negligent inspection, review or approval of any property, real or
6 personal, to determine whether the property complies with or
7 violates any law or contains a hazard to health or safety, or fails
8 to conform to a recognized standard;

9 14. Any loss to any person covered by any workers' compensation
10 act or any employer's liability act;

11 15. Absence, condition, location or malfunction of any traffic
12 or road sign, signal or warning device unless the absence,
13 condition, location or malfunction is not corrected by the state or
14 political subdivision responsible within a reasonable time after
15 actual or constructive notice or the removal or destruction of such
16 signs, signals or warning devices by third parties, action of
17 weather elements or as a result of traffic collision except on
18 failure of the state or political subdivision to correct the same
19 within a reasonable time after actual or constructive notice.

20 Nothing herein shall give rise to liability arising from the failure
21 of the state or any political subdivision to initially place any of
22 the above signs, signals or warning devices. The signs, signals and
23 warning devices referred to herein are those used in connection with
24 hazards normally connected with the use of roadways or public ways

1 and do not apply to the duty to warn of special defects such as
2 excavations or roadway obstructions;

3 16. Any claim which is limited or barred by any other law;

4 17. Misrepresentation, if unintentional;

5 18. An act or omission of an independent contractor or
6 consultant or his or her employees, agents, subcontractors or
7 suppliers or of a person other than an employee of the state or
8 political subdivision at the time the act or omission occurred;

9 19. Theft by a third person of money in the custody of an
10 employee unless the loss was sustained because of the negligence or
11 wrongful act or omission of the employee;

12 20. Participation in or practice for any interscholastic or
13 other athletic contest sponsored or conducted by or on the property
14 of the state or a political subdivision;

15 21. Participation in any activity approved by a local board of
16 education and held within a building or on the grounds of the school
17 district served by that local board of education before or after
18 normal school hours or on weekends;

19 22. Use of indoor or outdoor school property and facilities
20 made available for public recreation before or after normal school
21 hours or on weekends or school vacations, except those claims
22 resulting from willful and wanton acts of negligence. For purposes
23 of this paragraph:
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1 a. "public" includes, but is not limited to, students
2 during nonschool hours and school staff when not
3 working as employees of the school, and

4 b. "recreation" means any indoor or outdoor physical
5 activity, either organized or unorganized, undertaken
6 for exercise, relaxation, diversion, sport or
7 pleasure, and that is not otherwise covered by
8 paragraph 20 or 21 of this section;

9 23. Any court-ordered, Department of Corrections or county
10 approved work release program; provided, however, this provision
11 shall not apply to claims from individuals not in the custody of the
12 Department of Corrections based on accidents involving motor
13 vehicles owned or operated by the Department of Corrections;

14 24. The activities of the National Guard, the militia or other
15 military organization administered by the Military Department of the
16 state when on duty pursuant to the lawful orders of competent
17 authority:

- 18 a. in an effort to quell a riot,
19 b. in response to a natural disaster or military attack,
20 or
21 c. if participating in a military mentor program ordered
22 by the court;

23 25. Provision, equipping, operation or maintenance of any
24 prison, jail or correctional facility, or injuries resulting from

1 the parole or escape of a prisoner or injuries by a prisoner to any
2 other prisoner; provided, however, this provision shall not apply to
3 claims from individuals not in the custody of the Department of
4 Corrections based on accidents involving motor vehicles owned or
5 operated by the Department of Corrections;

6 26. Provision, equipping, operation or maintenance of any
7 juvenile detention facility, or injuries resulting from the escape
8 of a juvenile detainee, or injuries by a juvenile detainee to any
9 other juvenile detainee;

10 27. Any claim or action based on the theory of manufacturer's
11 products liability or breach of warranty, either expressed or
12 implied;

13 28. Any claim or action based on the theory of indemnification
14 or subrogation;

15 29. Any claim based upon an act or omission of an employee in
16 the placement of children;

17 30. Acts or omissions done in conformance with then current
18 recognized standards;

19 31. Maintenance of the state highway system or any portion
20 thereof unless the claimant presents evidence which establishes
21 either that the state failed to warn of the unsafe condition or that
22 the loss would not have occurred but for a negligent affirmative act
23 of the state;

1 32. Any confirmation of the existence or nonexistence of any
2 effective financing statement on file in the ~~office~~ Office of the
3 Secretary of State made in good faith by an employee of the office
4 of the Secretary of State as required by the provisions of Section
5 1-9-320.6 of Title 12A of the Oklahoma Statutes;

6 33. Any court-ordered community sentence;

7 34. Remedial action and any subsequent related maintenance of
8 property pursuant to and in compliance with an authorized
9 environmental remediation program, order, or requirement of a
10 federal or state environmental agency;

11 35. The use of necessary and reasonable force by a school
12 district employee to control and discipline a student during the
13 time the student is in attendance or in transit to and from the
14 school, or any other function authorized by the school district;

15 36. Actions taken in good faith by a school district employee
16 for the out-of-school suspension of a student pursuant to applicable
17 Oklahoma Statutes; ~~or~~

18 37. Use of a public facility opened to the general public
19 during an emergency; or

20 38. Use of outdoor public property and facilities made
21 available for public recreation, except those claims resulting from
22 willful and wanton acts of negligence.
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SECTION 2. This act shall become effective November 1, 2020.

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