

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. 1

COMMITTEE AMENDMENT

(Date)

I move to amend House Bill No. 1547 by substituting the attached floor substitute (Request # 2142) for the title, enacting clause and entire body of the measure.

Submitted by:

Brent Howard
Senator Howard

I hereby grant permission for the floor substitute to be adopted.

Brent Howard
Senator Howard, Chair (required)

[Signature]
Senator Gollihare

Mary B Boren
Senator Boren

Senator Brooks

Senator Bullard

Senator Daniels

Senator Treat, President Pro Tempore

Senator Floyd

[Signature]
Senator Hall

[Signature]
Senator Jech

Senator Standridge

[Signature]
Senator Stewart

Senator Weaver

Senator McCortney, Majority Floor Leader

Note: Judiciary Committee majority requires seven (7) members' signatures.

Howard-TEK-FS-HB1547
4/26/2023 1:23 PM

(Floor Amendments Only) Date and Time Filed: 4-26-23 2:21pm Jfd

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1547

6 By: Moore of the House

7 and

8 Howard of the Senate

9 FLOOR SUBSTITUTE

10 An Act relating to civil procedure; amending 12 O.S.
11 2021, Sections 81 and 83, which relate to payments or
12 conserving monies obtained for or on behalf of
13 persons under eighteen years of age or incompetent
14 persons in court proceedings; increasing monetary
15 minimum; providing for conserving monies obtained for
16 or on behalf of persons under eighteen years of age
17 when sum is under a certain amount; modifying when
18 withdrawals of monies can be made; providing when a
19 settlement agreement is binding on the minor without
20 court approval; providing that a person acting in
21 good faith on behalf of a minor is not liable to the
22 minor for the monies paid in settlement; providing
23 that no insurer shall be liable to the minor or
24 anyone else for any deviation from such obligations
except upon proving by clear and convincing evidence
that the deviation was an intentional act to harm the
minor; providing that person or entity against whom a
minor has a claim that settles the claim with a minor
in good faith not be liable to the minor for any
claims arising from the settlement of the claim;
requiring an adult acting on behalf of a person who
is less than eighteen years of age to complete an
affidavit or verified statement; providing affidavit
form; requiring any federally insured banking, credit
union or savings and loan institution receiving the
monies for deposit shall complete a receipt of
deposit; providing receipt of deposit form; repealing
12 O.S. 2021, Sections 86 and 86.1, which relate to

1 the Oklahoma Statutory Thresholds for Settlements
2 Involving Minors Act of 2022; and providing an
3 effective date.
4

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

6 SECTION 1. AMENDATORY 12 O.S. 2021, Section 81, is
7 amended to read as follows:

8 Section 81. Where any amount of money not exceeding ~~Five~~
9 ~~Hundred Dollars (\$500.00)~~ One Thousand Five Hundred Dollars
10 (\$1,500.00) shall be deposited and paid into any court of record of
11 this state by virtue of any judgment, order, settlement,
12 distribution or decree for the use and benefit of, and to the credit
13 of, any minor or incompetent person having no legal guardian of his
14 estate within this state, and no person shall within ninety (90)
15 days thereafter become the legal and qualified guardian of the
16 estate of such minor or incompetent person, if it appears to the
17 court that such money is needed for the support of such minor or
18 incompetent person or that it is otherwise for the best interest of
19 such minor or incompetent person, the court may, in its discretion,
20 order payment of such funds to be made to any proper and suitable
21 person as trustee for such minor or incompetent person, with bond,
22 as the court may direct, to be expended for the support, use, and
23 benefit of such minor or incompetent person. Such order may be made
24 by the court in the original cause in which the funds are credited

1 upon the application of any interested person; and the court may
2 direct the clerk of the court to make payment of the same to be made
3 in installments or in one lump sum as may seem for the best
4 interests of such minor or incompetent person.

5 SECTION 2. AMENDATORY 12 O.S. 2021, Section 83, is
6 amended to read as follows:

7 Section 83. A. Monies recovered in any court proceeding by a
8 next friend or guardian ad litem for or on behalf of a person who is
9 less than eighteen (18) years of age in excess of ~~One Thousand~~
10 ~~Dollars (\$1,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) over
11 sums sufficient for paying costs and expenses including medical
12 bills and ~~attorney's~~ attorney fees shall be deposited, by order of
13 the court, in one or more federally insured banking, credit union or
14 savings and loan institutions, a trust established for the person
15 approved by the court, or invested by a bank or trust company having
16 trust powers under federal or state law, approved by the court;
17 provided, that the court may approve a structured settlement, by the
18 terms of which the proceeds of a settlement may be invested by the
19 plaintiff or the defendant in an annuity to be paid to or for the
20 benefit of the minor by an insurance company licensed in this state.
21 If authorized by the court at the request of the next friend or
22 guardian ad litem, all or a portion of the recovered monies may be
23 deposited in an account pursuant to the Oklahoma College Savings
24 Plan Act with the minor designated as beneficiary of the account.

1 B. A minor's parent or guardian may enter into a settlement
2 agreement outside of a court proceeding with a person against whom
3 the minor has a claim if a guardian ad litem, guardian, or
4 conservator has not been appointed for the minor, and the total
5 amount of the settlement proceeds is greater than One Thousand Five
6 Hundred Dollars (\$1,500.00) and less than or equal to Twenty-five
7 Thousand Dollars (\$25,000.00), after reduction from the total
8 settlement amount of all medical expenses, medical liens, all other
9 liens, and reasonable attorney fees and costs. Monies recovered
10 from such a settlement shall be deposited by the parent or guardian
11 in a savings account that accrues interest at one or more federally
12 insured banking, credit union, or savings and loan institutions; in
13 a trust established for the minor by a bank or trust company having
14 trust powers under state or federal law; or into a structured
15 settlement by the terms of which the proceeds of the settlement may
16 be invested in an annuity to be paid to or for the benefit of the
17 minor by an insurance company licensed in this state. All or a
18 portion of the recovered monies may also be deposited in an account
19 pursuant to the Oklahoma College Savings Plan Act with the minor
20 designated as the sole beneficiary of the account.

21 The parent or guardian acting on behalf of the person who is
22 less than eighteen (18) years of age shall complete an affidavit or
23 verified statement in conformity with this section. The parent or
24 guardian entering into the settlement agreement on behalf of the

1 minor shall retain a copy of the affidavit or verified statement for
2 the minor until the minor reaches the age of majority. If the minor
3 is represented by counsel, the attorney shall also retain in the
4 attorney file a copy of the affidavit or verified statement until
5 one (1) year after the minor attains eighteen (18) years of age.

6 Any federally insured banking, credit union, or savings and loan
7 institution receiving the monies for deposit shall complete a
8 receipt of deposit signed by an officer of the bank, credit union,
9 or savings and loan institution in conformity with subsection J of
10 this section. A federally insured banking, credit union, or savings
11 and loan institution may accept the affidavit without further
12 investigation and the bank, credit union, or savings and loan
13 institution shall not be liable to the minor or parent or guardian
14 provided the account is administered as set forth in the affidavit
15 and receipt of deposit provided for in this section.

16 C. Until the ~~person~~ minor becomes eighteen (18) years of age,
17 withdrawals of monies from the account or accounts shall be solely
18 pursuant to order of the court made in the case in which recovery
19 was had, or by filing an action if no case had previously been
20 filed, or upon the minor's death.

21 ~~C.~~ D. When an application for the order is made by a person who
22 is not represented by an attorney, the judge of the court shall
23 prepare the order.

24 ~~D. This section shall not apply if~~

1 E. If a legal guardian has been appointed for the minor prior
2 to any award of monies pursuant to subsection A of this section. ~~If~~
3 ~~a legal guardian is appointed after any award of monies pursuant to~~
4 ~~subsection A of this section,~~ the legal guardian may petition the
5 district court in the county where the federally insured funds are
6 held for an order directing the bank, credit union or savings and
7 loan to transfer the funds to the legal guardian. The district
8 court may make the granting of the request to transfer funds subject
9 to reasonable safeguards.

10 F. If a settlement agreement is entered into in compliance with
11 subsection B of this section, the signature of the parent or
12 guardian entering into the settlement agreement on behalf of the
13 minor is binding on the minor without the need for court approval or
14 review and has the same force and effect as if the minor were a
15 competent adult entering into the settlement agreement.

16 G. A person acting in good faith on behalf of a minor pursuant
17 to subsection B of this section shall not be liable to the minor for
18 the monies paid in the settlement or for any other claim arising out
19 of the settlement.

20 H. Any person or entity against whom a minor has a claim that
21 settles the claim with a minor in good faith under this section
22 shall not be liable to the minor or the minor's parent or guardian
23 for any claims arising from the settlement of the claim.
24

1 I. The minor's parent or guardian shall complete an affidavit
2 or verified statement in substantial conformity with the applicable
3 provisions as follows:

4 "I, [Name of Affiant], being of lawful age and after being duly
5 sworn upon oath, state as follows:

6 1. I am the parent or guardian of [Name of minor child] ("XX"),
7 a minor child.

8 2. XX's date of birth is MM-DD-YYYY.

9 3. [Briefly state when, where, and how the incident in question
10 occurred.]

11 4. [Briefly state how minor was injured in the incident,
12 describe his or her injuries, medical care received, if any, and how
13 they are doing today.]

14 5. As a result of the injuries sustained by XX in the incident
15 in question, I, individually and on behalf of XX, a minor, agreed to
16 settle the claims of XX against [Name of tortfeasor(s)], with their
17 insurer, [if any, provide the name of Third-Party Liability
18 Insurance Carrier(s)], in the amount of \$XXXX; and with my UM/UIM
19 insurer, [if any, provide the name of First-Party-Liability
20 Insurance Carrier(s)], in the amount of \$XXXX, [add additional
21 tortfeasor or first-party coverages where applicable] for a total
22 settlement in the amount of \$XXXX.

23 6. I understand that all medical expenses, liens and
24 subrogation claims must be paid from the settlement: [List all

1 outstanding medical expenses, liens and subrogation providers and
2 the amounts.]

3 7. I understand that I (or another parent or guardian of the
4 minor) may be reimbursed from the settlement for medical expenses
5 that I or we have paid for the care or treatment of XX as a result
6 of injuries incurred by XX due to the subject incident as follows:
7 [List all relevant medical expenses of XX, paid for by a parent or
8 guardian, for which reimbursement is sought from the settlement.]

9 8. I understand that \$XXXX will be paid from the settlement to
10 [Name of Firm/Attorney, if any] for attorney fees and costs in
11 securing the settlement pursuant to my contract with [Name of
12 Firm/Attorney].

13 9. I understand that pursuant to subsection B of Section 83 of
14 Title 12 of the Oklahoma Statutes, the net of XX's settlement in the
15 amount of \$XXXX must be deposited in a savings account that accrues
16 interest at one or more federally insured banking, credit union or
17 savings and loan institutions; in a trust established for XX, by a
18 bank or trust company having trust powers under state or federal
19 law; or into a structured settlement, by the terms of which the
20 proceeds of a settlement may be invested in an annuity to be paid to
21 or for the benefit of XX by an insurance company licensed in this
22 state. All or a portion of the recovered monies may be deposited in
23 an account pursuant to the Oklahoma College Savings Plan Act with XX
24 designated as a beneficiary of the account.

1 10. I understand that such funds may not be withdrawn, removed,
2 paid out, or transferred to anyone until XX is 18 years of age,
3 except pursuant to court order or upon the minor's death. When the
4 minor XX reaches the age of eighteen (18) years, the funds may be
5 withdrawn, removed, paid out or transferred by the minor without a
6 court order.

7 11. I understand that I must deposit the funds, secure a
8 Receipt of Deposit from the bank, and if I am represented, to return
9 the Receipt of Deposit to my attorney. I must also advise the minor
10 of the settlement and the location of the settlement funds as soon
11 as the minor has the ability to understand its existence and at the
12 time the minor reaches eighteen (18) years of age.

13 12. I understand that should I not settle this matter on behalf
14 of the minor, I have the right to ask for a jury trial in this
15 matter, and that a jury may have awarded more, less, or the same
16 amount, but by settling XX's claims, I am giving up this right to a
17 jury trial.

18 13. I understand that should I not settle this matter, or
19 pursue a jury trial on behalf of XX, XX would alternatively have a
20 right to bring a cause of action against [Name of Tortfeasor(s)]
21 within the one (1) year between XX's 18th and 19th birthdays;
22 however, by settling this matter at this time on XX's behalf, I am
23 waiving his or her right to bring a cause of action at that time,
24

1 and relatedly his or her opportunity to obtain a verdict through
2 jury trial.

3 14. I understand that by settling XX's claims, whether for
4 already known or later-discovered additional injuries from the
5 subject incident and/or if XX requires future medical care, I will
6 not be able to open this claim or bring any future cause of action
7 against [Name of Tortfeasor(s) or their insurer(s)], [Name of
8 Insurance Carrier, if any], to request additional sums of money.

9 15. I believe this is a fair and reasonable settlement of XX's
10 claim: that to the best of my knowledge the minor will be fully
11 compensated by the settlement, or there is no practical way to
12 obtain additional amounts from the other party/parties entering into
13 the settlement agreement.

14 16. I believe this settlement is in the best interests of XX.

15 17. I understand that this settlement is full and final; I have
16 not been coerced, pressured, or threatened into entering this
17 settlement in any way.

18 FURTHER AFFIANT SAYETH NOT.

19 _____

20 _____

21 _____ [Name of Affiant]

22 _____ [Address of Affiant]

23 _____ [Phone Number of Affiant]

24

1 I state under penalty of perjury under the laws of Oklahoma that the
2 foregoing is true and correct.

3 _____
4 Date _____ Signature of Parent or Legal Guardian of XX

5 Approved as to form and content by:

6 _____

7 [Attorney Name, if any]

8 J. Any federally insured banking, credit union or savings and
9 loan institution receiving the monies for deposit shall complete a
10 receipt of deposit referenced herein in conformity with the
11 following:

12 RECEIPT OF DEPOSIT

13 The undersigned, an Officer of [Name of Bank], does hereby
14 acknowledge receipt of the Affidavit of [Name of Affiant], and that
15 \$XXXXXX was deposited for the benefit of the minor, XX.

16 It is understood that the funds so deposited, pursuant to provisions
17 under Section 83 of Title 12 of the Oklahoma Statutes, may not be
18 withdrawn, removed, paid out, or transferred by anyone until XX is
19 eighteen (18) years of age, except pursuant to court order or upon
20 the minor's death.

21 When XX reaches the age of eighteen (18) years of age, the funds may
22 be withdrawn, removed, paid out, or transferred by XX without court
23 order.

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BY:

Signature

Printed Name

Title

Subscribed and sworn to before me this _____ day of _____,
20____.

Notary Public

My Commission Expires:

_____”

SECTION 3. REPEALER 12 O.S. 2021, Sections 86 and 86.1,
are hereby repealed.

SECTION 4. This act shall become effective November 1, 2023.

59-1-2142 TEK 4/26/2023 3:39:47 PM