

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2373

By: Kannady of the House

and

**Howard** of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to The Governmental Tort Claims Act;  
12                   amending 51 O.S. 2011, Section 154, which relates to  
13                   extent of liability; modifying limits of liability;  
14                   and providing an effective date.

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

17                   SECTION 1.           AMENDATORY           51 O.S. 2011, Section 154, is  
18 amended to read as follows:

19                   Section 154. A. The total liability of the state and its  
20 political subdivisions on claims within the scope of The  
21 Governmental Tort Claims Act, arising out of an accident or  
22 occurrence happening after the effective date of this act, Section  
23 151 et seq. of this title, shall not exceed:

1        1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ The actual amount  
2 of loss for any claim or to any claimant who has more than one claim  
3 for loss of property arising out of a single act, accident, or  
4 occurrence;

5        2. Except as otherwise provided in this paragraph, ~~One Hundred~~  
6 ~~Twenty-five Thousand Dollars (\$125,000.00)~~ Three Hundred Seventy-  
7 five Thousand Dollars (\$375,000.00) to any claimant for a claim for  
8 any other loss arising out of a single act, accident, or occurrence.  
9 The limit of liability for the state or any city or county with a  
10 population of three hundred thousand (300,000) or more according to  
11 the latest Federal Decennial Census shall not exceed ~~One Hundred~~  
12 ~~Seventy-five Thousand Dollars (\$175,000.00)~~ Five Hundred Thousand  
13 Dollars (\$500,000.00). Except however, the limits of said liability  
14 for the University Hospitals and State Mental Health Hospitals  
15 operated by the Department of Mental Health and Substance Abuse  
16 Services for claims arising from medical negligence shall be ~~Two~~  
17 ~~Hundred Thousand Dollars (\$200,000.00)~~ Three Hundred Fifty Thousand  
18 Dollars (\$350,000.00). For claims arising from medical negligence  
19 by any licensed physician, osteopathic physician or certified nurse-  
20 midwife rendering prenatal, delivery or infant care services from  
21 September 1, 1991, through June 30, 1996, pursuant to a contract  
22 authorized by subsection B of Section 1-106 of Title 63 of the  
23 Oklahoma Statutes and in conformity with the requirements of Section  
24 1-233 of Title 63 of the Oklahoma Statutes, the limits of said

1 liability shall be ~~Two Hundred Thousand Dollars (\$200,000.00)~~ Three  
2 Hundred Fifty Thousand Dollars (\$350,000.00); or

3 3. ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars  
4 (\$2,000,000.00) for any number of claims arising out of a single  
5 occurrence or accident.

6 B. 1. Beginning on the effective date of this act, claims  
7 shall be allowed for wrongful criminal felony conviction resulting  
8 in imprisonment if the claimant has received a full pardon on the  
9 basis of a written finding by the Governor of actual innocence for  
10 the crime for which the claimant was sentenced or has been granted  
11 judicial relief absolving the claimant of guilt on the basis of  
12 actual innocence of the crime for which the claimant was sentenced.  
13 The Governor or the court shall specifically state, in the pardon or  
14 order, the evidence or basis on which the finding of actual  
15 innocence is based.

16 2. As used in paragraph 1 of this subsection, for a claimant to  
17 recover based on "actual innocence", the individual must meet the  
18 following criteria:

- 19 a. the individual was charged, by indictment or  
20 information, with the commission of a public offense  
21 classified as a felony,  
22 b. the individual did not plead guilty to the offense  
23 charged, or to any lesser included offense, but was  
24 convicted of the offense,

- 1 c. the individual was sentenced to incarceration for a  
2 term of imprisonment as a result of the conviction,  
3 d. the individual was imprisoned solely on the basis of  
4 the conviction for the offense, and  
5 e. (1) in the case of a pardon, a determination was made  
6 by either the Pardon and Parole Board or the  
7 Governor that the offense for which the  
8 individual was convicted, sentenced and  
9 imprisoned, including any lesser offenses, was  
10 not committed by the individual, or  
11 (2) in the case of judicial relief, a court of  
12 competent jurisdiction found by clear and  
13 convincing evidence that the offense for which  
14 the individual was convicted, sentenced and  
15 imprisoned, including any lesser included  
16 offenses, was not committed by the individual and  
17 issued an order vacating, dismissing or reversing  
18 the conviction and sentence and providing that no  
19 further proceedings can be or will be held  
20 against the individual on any facts and  
21 circumstances alleged in the proceedings which  
22 had resulted in the conviction.

23 3. A claimant shall not be entitled to compensation for any  
24 part of a sentence in prison during which the claimant was also

1 serving a concurrent sentence for a crime not covered by this  
2 subsection.

3 4. The total liability of the state and its political  
4 subdivisions on any claim within the scope of The Governmental Tort  
5 Claims Act arising out of wrongful criminal felony conviction  
6 resulting in imprisonment shall not exceed ~~One Hundred Seventy five~~  
7 ~~Thousand Dollars (\$175,000.00)~~ Three Hundred Thousand Dollars  
8 (\$300,000.00).

9 5. The provisions of this subsection shall apply to convictions  
10 occurring on or before the effective date of this act as well as  
11 convictions occurring after the effective date of this act. If a  
12 court of competent jurisdiction finds that retroactive application  
13 of this subsection is unconstitutional, the prospective application  
14 of this subsection shall remain valid.

15 C. No award for damages in an action or any claim against the  
16 state or a political subdivision shall include punitive or exemplary  
17 damages.

18 D. When the amount awarded to or settled upon multiple  
19 claimants exceeds the limitations of this section, any party may  
20 apply to the district court which has jurisdiction of the cause to  
21 apportion to each claimant the claimant's proper share of the total  
22 amount as limited herein. The share apportioned to each claimant  
23 shall be in the proportion that the ratio of the award or settlement  
24 made to ~~him~~ each claimant bears to the aggregate awards and

1 settlements for all claims against the state or its political  
2 subdivisions arising out of the occurrence. When the amount of the  
3 aggregate losses presented by a single claimant exceeds the limits  
4 of paragraph 1 or 2 of subsection A of this section, each person  
5 suffering a loss shall be entitled to that person's proportionate  
6 share.

7 E. The total liability of resident physicians and interns while  
8 participating in a graduate medical education program of the  
9 University of Oklahoma College of Medicine, its affiliated  
10 institutions and the Oklahoma State University College of  
11 Osteopathic Medicine and ~~Surgery~~ shall not exceed ~~One Hundred~~  
12 ~~Thousand Dollars (\$100,000.00)~~ One Hundred Seventy-five Thousand  
13 Dollars (\$175,000.00).

14 F. The state or a political subdivision may petition the court  
15 that all parties and actions arising out of a single accident or  
16 occurrence shall be joined as provided by law, and upon order of the  
17 court the proceedings upon good cause shown shall be continued for a  
18 reasonable time or until such joinder has been completed. The state  
19 or political subdivision shall be allowed to interplead in any  
20 action which may impose on it any duty or liability pursuant to this  
21 act.

22 G. The liability of the state or political subdivision under  
23 The Governmental Tort Claims Act shall be several from that of any  
24 other person or entity, and the state or political subdivision shall

1 only be liable for that percentage of total damages that corresponds  
2 to its percentage of total negligence. Nothing in this section  
3 shall be construed as increasing the liability limits imposed on the  
4 state or political subdivision under The Governmental Tort Claims  
5 Act.

6 SECTION 2. This act shall become effective November 1, 2023.

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8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated  
9 03/06/2023 - DO PASS, As Amended and Coauthored.

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