

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1590

By: Prieto

4
5
6 AS INTRODUCED

7 An Act relating to The Governmental Tort Claims Act;
8 amending 51 O.S. 2021, Sections 152, as amended by
9 Section 18, Chapter 228, O.S.L. 2022, 154, and 155,
10 as amended by Section 21, Chapter 228, O.S.L. 2022
11 (51 O.S. Supp. 2023, Sections 152 and 155), which
12 relate to definitions, extent of liability, and
13 exceptions from liability; modifying definition;
14 requiring award of certain costs and fees for
15 prevailing plaintiff; authorizing award of certain
16 fees to defendant under certain circumstances;
17 providing for liability for exempted acts upon
18 certain findings by court; and providing an effective
19 date.

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

21 SECTION 1. AMENDATORY 51 O.S. 2021, Section 152, as
22 amended by Section 18, Chapter 228, O.S.L. 2022 (51 O.S. Supp. 2023,
23 Section 152), is amended to read as follows:

24 Section 152. As used in The Governmental Tort Claims Act:

25 1. "Action" means a proceeding in a court of competent
26 jurisdiction by which one party brings a suit against another;

1 2. "Agency" means any board, commission, committee, department
2 or other instrumentality or entity designated to act in behalf of
3 the state or a political subdivision;

4 3. "Charitable health care provider" means a person who is
5 licensed, certified, or otherwise authorized by the laws of this
6 state to administer health care in the ordinary course of business
7 or the practice of a profession and who provides care to a medically
8 indigent person, as defined in paragraph 9 of this section, with no
9 expectation of or acceptance of compensation of any kind;

10 4. "Claim" means any written demand presented by a claimant or
11 the claimant's authorized representative in accordance with the
12 Governmental Tort Claims Act to recover money from the state or
13 political subdivision as compensation for an act or omission of a
14 political subdivision or the state or an employee;

15 5. "Claimant" means the person or the person's authorized
16 representative who files notice of a claim in accordance with The
17 Governmental Tort Claims Act. Only the following persons and no
18 others may be claimants:

- 19 a. any person holding an interest in real or personal
20 property which suffers a loss, provided that the claim
21 of the person shall be aggregated with claims of all
22 other persons holding an interest in the property and
23 the claims of all other persons which are derivative

1 of the loss, and that multiple claimants shall be
2 considered a single claimant,

- 3 b. the individual actually involved in the accident or
4 occurrence who suffers a loss, provided that the
5 individual shall aggregate in the claim the losses of
6 all other persons which are derivative of the loss, or
7 c. in the case of death, an administrator, special
8 administrator or a personal representative who shall
9 aggregate in the claim all losses of all persons which
10 are derivative of the death;

11 6. "Community health care provider" means:

- 12 a. a health care provider who volunteers services at a
13 community health center that has been deemed by the
14 U.S. Department of Health and Human Services as a
15 federally qualified health center as defined by 42
16 U.S.C., Section 1396d(1)(2)(B),
17 b. a health provider who provides services to an
18 organization that has been deemed a federally
19 qualified look-alike community health center, and
20 c. a health care provider who provides services to a
21 community health center that has made application to
22 the U.S. Department of Health and Human Services for
23 approval and deeming as a federally qualified look-
24 alike community health center in compliance with

1 federal application guidance, and has received
2 comments from the U.S. Department of Health and Human
3 Services as to the status of such application with the
4 established intent of resubmitting a modified
5 application, or, if denied, a new application, no
6 later than six (6) months from the date of the
7 official notification from the U.S. Department of
8 Health and Human Services requiring resubmission of a
9 new application;

10 7. "Employee" means any person who is authorized to act in
11 behalf of a political subdivision or the state whether that person
12 is acting on a permanent or temporary basis, with or without being
13 compensated or on a full-time or part-time basis.

14 a. Employee also includes:

15 (1) all elected or appointed officers, members of
16 governing bodies and other persons designated to
17 act for an agency or political subdivision, but
18 the term does not mean a person or other legal
19 entity while acting in the capacity of an
20 independent contractor or an employee of an
21 independent contractor,

22 (2) from September 1, 1991, through June 30, 1996,
23 licensed physicians, licensed osteopathic
24 physicians and certified nurse-midwives providing
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1 prenatal, delivery or infant care services to
2 State Department of Health clients pursuant to a
3 contract entered into with the State Department
4 of Health in accordance with paragraph 3 of
5 subsection B of Section 1-106 of Title 63 of the
6 Oklahoma Statutes but only insofar as services
7 authorized by and in conformity with the terms of
8 the contract and the requirements of Section 1-
9 233 of Title 63 of the Oklahoma Statutes, and
10 (3) any volunteer, full-time or part-time firefighter
11 when performing duties for a fire department
12 provided for in subparagraph j of paragraph 11 of
13 this section.

14 b. For the purpose of The Governmental Tort Claims Act,
15 the following are employees of this state, regardless
16 of the place in this state where duties as employees
17 are performed:

- 18 (1) physicians acting in an administrative capacity,
19 (2) resident physicians and resident interns
20 participating in a graduate medical education
21 program of the University of Oklahoma Health
22 Sciences Center, the College of Osteopathic
23 Medicine of Oklahoma State University, or the
24

1 Department of Mental Health and Substance Abuse
2 Services,

3 (3) faculty members and staff of the University of
4 Oklahoma Health Sciences Center and the College
5 of Osteopathic Medicine of Oklahoma State
6 University, while engaged in teaching duties,

7 (4) physicians who practice medicine or act in an
8 administrative capacity as an employee of an
9 agency of the State of Oklahoma,

10 (5) physicians who provide medical care to inmates
11 pursuant to a contract with the Department of
12 Corrections,

13 (6) any person who is licensed to practice medicine
14 pursuant to Title 59 of the Oklahoma Statutes,
15 who is under an administrative professional
16 services contract with the Oklahoma Health Care
17 Authority under the auspices of the Oklahoma
18 Health Care Authority Chief Medical Officer, and
19 who is limited to performing administrative
20 duties such as professional guidance for medical
21 reviews, reimbursement rates, service
22 utilization, health care delivery and benefit
23 design for the Oklahoma Health Care Authority,

1 only while acting within the scope of such
2 contract,

3 (7) licensed medical professionals under contract
4 with city, county, or state entities who provide
5 medical care to inmates or detainees in the
6 custody or control of law enforcement agencies,

7 (8) licensed mental health professionals as defined
8 in Sections 1-103 and 5-502 of Title 43A of the
9 Oklahoma Statutes, who are conducting initial
10 examinations of individuals for the purpose of
11 determining whether an individual meets the
12 criteria for emergency detention as part of a
13 contract with the Department of Mental Health and
14 Substance Abuse Services, and

15 (9) licensed mental health professionals as defined
16 in Sections 1-103 and 5-502 of Title 43A of the
17 Oklahoma Statutes, who are providing mental
18 health or substance abuse treatment services
19 under a professional services contract with the
20 Department of Mental Health and Substance Abuse
21 Services and are providing such treatment
22 services at a state-operated facility.

23 Physician faculty members and staff of the University
24 of Oklahoma Health Sciences Center and the College of

1 Osteopathic Medicine of Oklahoma State University not
2 acting in an administrative capacity or engaged in
3 teaching duties are not employees or agents of the
4 state.

5 c. Except as provided in subparagraph b of this
6 paragraph, in no event shall the state be held liable
7 for the tortious conduct of any physician, resident
8 physician or intern while practicing medicine or
9 providing medical treatment to patients.

10 d. For purposes of The Governmental Tort Claims Act,
11 members of the state military forces on state active
12 duty orders or on Title 32 active duty orders are
13 employees of this state, regardless of the place,
14 within or outside this state, where their duties as
15 employees are performed;

16 8. "Loss" means death or injury to the body or rights of a
17 person or damage to real or personal property or rights therein;

18 9. "Medically indigent" means a person requiring medically
19 necessary hospital or other health care services for the person or
20 the dependents of the person who has no public or private third-
21 party coverage, and whose personal resources are insufficient to
22 provide for needed health care;

23 10. "Municipality" means any incorporated city or town, and all
24 institutions, agencies or instrumentalities of a municipality;

1 11. "Political subdivision" means:

2 a. a municipality,

3 b. a school district, including, but not limited to, a
4 technology center school district established pursuant
5 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of
6 the Oklahoma Statutes,

7 c. a county,

8 d. a public trust where the sole beneficiary or
9 beneficiaries are a city, town, school district or
10 county. For purposes of The Governmental Tort Claims
11 Act, a public trust shall include:

12 (1) a municipal hospital created pursuant to Sections
13 30-101 through 30-109 of Title 11 of the Oklahoma
14 Statutes, a county hospital created pursuant to
15 Sections 781 through 796 of Title 19 of the
16 Oklahoma Statutes, or is created pursuant to a
17 joint agreement between such governing
18 authorities, that is operated for the public
19 benefit by a public trust created pursuant to
20 Sections 176 through 180.4 of Title 60 of the
21 Oklahoma Statutes and managed by a governing
22 board appointed or elected by the municipality,
23 county, or both, who exercises control of the
24 hospital, subject to the approval of the

1 governing body of the municipality, county, or
2 both,

3 (2) a public trust created pursuant to Sections 176
4 through 180.4 of Title 60 of the Oklahoma
5 Statutes after January 1, 2009, the primary
6 purpose of which is to own, manage, or operate a
7 public acute care hospital in this state that
8 serves as a teaching hospital for a medical
9 residency program provided by a college of
10 osteopathic medicine and provides care to
11 indigent persons, and

12 (3) a corporation in which all of the capital stock
13 is owned, or a limited liability company in which
14 all of the member interest is owned, by a public
15 trust,

16 e. for the purposes of The Governmental Tort Claims Act
17 only, a housing authority created pursuant to the
18 provisions of the Oklahoma Housing Authority Act,

19 f. for the purposes of The Governmental Tort Claims Act
20 only, corporations organized not for profit pursuant
21 to the provisions of the Oklahoma General Corporation
22 Act for the primary purpose of developing and
23 providing rural water supply and sewage disposal
24 facilities to serve rural residents,

- 1 g. for the purposes of The Governmental Tort Claims Act
2 only, districts formed pursuant to the Rural Water,
3 Sewer, Gas and Solid Waste Management Districts Act,
4 h. for the purposes of The Governmental Tort Claims Act
5 only, master conservancy districts formed pursuant to
6 the Conservancy Act of Oklahoma,
7 i. for the purposes of The Governmental Tort Claims Act
8 only, a fire protection district created pursuant to
9 the provisions of Section 901.1 et seq. of Title 19 of
10 the Oklahoma Statutes,
11 j. for the purposes of The Governmental Tort Claims Act
12 only, a benevolent or charitable corporate volunteer
13 or full-time fire department for an unincorporated
14 area created pursuant to the provisions of Section 592
15 et seq. of Title 18 of the Oklahoma Statutes,
16 k. for purposes of The Governmental Tort Claims Act only,
17 an Emergency Services Provider rendering services
18 within the boundaries of a Supplemental Emergency
19 Services District pursuant to an existing contract
20 between the Emergency Services Provider and the State
21 Department of Health. Provided, however, that the
22 acquisition of commercial liability insurance covering
23 the activities of such Emergency Services Provider
24 performed within the State of Oklahoma shall not

1 operate as a waiver of any of the limitations,
2 immunities or defenses provided for political
3 subdivisions pursuant to the terms of The Governmental
4 Tort Claims Act,

5 l. for purposes of The Governmental Tort Claims Act only,
6 a conservation district created pursuant to the
7 provisions of the Conservation District Act,

8 m. for purposes of The Governmental Tort Claims Act,
9 districts formed pursuant to the Oklahoma Irrigation
10 District Act,

11 n. for purposes of The Governmental Tort Claims Act only,
12 any community action agency established pursuant to
13 Sections 5035 through 5040 of Title 74 of the Oklahoma
14 Statutes,

15 o. for purposes of The Governmental Tort Claims Act only,
16 any organization that is designated as a youth
17 services agency, pursuant to Section 2-7-306 of Title
18 10A of the Oklahoma Statutes,

19 p. for purposes of The Governmental Tort Claims Act only,
20 any judge presiding over a drug court, as defined by
21 Section 471.1 of Title 22 of the Oklahoma Statutes,

22 q. for purposes of The Governmental Tort Claims Act only,
23 any child-placing agency licensed by this state to
24 place children in foster family homes,

1 r. for purposes of The Governmental Tort Claims Act only,
2 a circuit engineering district created pursuant to
3 Section 687.1 of Title 69 of the Oklahoma Statutes,
4 s. for purposes of the Governmental Tort Claims Act only,
5 a substate planning district, regional council of
6 government or other entity created pursuant to Section
7 1001 et seq. of Title 74 of the Oklahoma Statutes, and
8 t. for purposes of The Governmental Tort Claims Act only,
9 a regional transportation authority created pursuant
10 to Section 1370.7 of Title 68 of the Oklahoma Statutes
11 including its contract operator and any railroad
12 operating in interstate commerce that sells a property
13 interest or provides services to a regional
14 transportation authority or allows the authority to
15 use the property or tracks of the railroad for the
16 provision of public passenger rail service to the
17 extent claims against the contract operator or
18 railroad arise out of or are related to or in
19 connection with such property interest, services or
20 operation of the public passenger rail service.
21 Provided, the acquisition of commercial liability
22 insurance to cover the activities of the regional
23 transportation authority, contract operator or
24 railroad shall not operate as a waiver of any

1 liabilities, immunities or defenses provided pursuant
2 to the provisions of the Governmental Tort Claims Act,
3 and all their institutions, instrumentalities or agencies;

4 12. "Scope of employment" means performance by an employee
5 acting ~~in good faith~~ within the duties of the employee's office or
6 employment or of tasks lawfully assigned by a competent authority
7 including the operation or use of an agency vehicle or equipment
8 with actual or implied consent of the supervisor of the employee,
9 but shall not include corruption, ~~or~~ fraud, gross negligence, or
10 willful misconduct;

11 13. "State" means the State of Oklahoma or any office,
12 department, agency, authority, commission, board, institution,
13 hospital, college, university, public trust created pursuant to
14 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
15 the beneficiary, or other instrumentality thereof;

16 14. "State active duty" shall be defined in accordance with
17 Section 801 of Title 44 of the Oklahoma Statutes;

18 15. "State military forces" shall be defined in accordance with
19 Section 801 of Title 44 of the Oklahoma Statutes;

20 16. "Title 32 active duty" shall be defined in accordance with
21 Section 801 of Title 44 of the Oklahoma Statutes; and

22 17. "Tort" means a legal wrong, independent of contract,
23 involving violation of a duty imposed by general law, statute, the
24 Constitution of the State of Oklahoma, or otherwise, resulting in a

1 loss to any person, association or corporation as the proximate
2 result of an act or omission of a political subdivision or the state
3 or an employee acting within the scope of employment.

4 SECTION 2. AMENDATORY 51 O.S. 2021, Section 154, is
5 amended to read as follows:

6 Section 154. A. ~~The~~ 1. Except for an award of costs and fees
7 pursuant to paragraph 2 of this subsection, the total liability of
8 the state and its political subdivisions on claims within the scope
9 of The Governmental Tort Claims Act, arising out of an accident or
10 occurrence happening after October 1, 1985, Section 151 et seq. of
11 this title, shall not exceed:

12 ~~1.~~ a. Twenty-five Thousand Dollars (\$25,000.00) for any
13 claim or to any claimant who has more than one claim
14 for loss of property arising out of a single act,
15 accident, or occurrence~~;~~ .

16 ~~2.~~ b. Except as otherwise provided in this paragraph, One
17 Hundred Twenty-five Thousand Dollars (\$125,000.00) to
18 any claimant for a claim for any other loss arising
19 out of a single act, accident, or occurrence. The
20 limit of liability for the state or any city or county
21 with a population of three hundred thousand (300,000)
22 or more according to the latest Federal Decennial
23 Census, or a political subdivision as defined in
24 subparagraph s of paragraph 11 of Section 152 of this

1 title, shall not exceed One Hundred Seventy-five
2 Thousand Dollars (\$175,000.00). Except however, the
3 limits of the liability for the University Hospitals
4 and State Mental Health Hospitals operated by the
5 Department of Mental Health and Substance Abuse
6 Services for claims arising from medical negligence
7 shall be Two Hundred Thousand Dollars (\$200,000.00).
8 For claims arising from medical negligence by any
9 licensed physician, osteopathic physician or certified
10 nurse-midwife rendering prenatal, delivery or infant
11 care services from September 1, 1991, through June 30,
12 1996, pursuant to a contract authorized by subsection
13 B of Section 1-106 of Title 63 of the Oklahoma
14 Statutes and in conformity with the requirements of
15 Section 1-233 of Title 63 of the Oklahoma Statutes,
16 the limits of the liability shall be Two Hundred
17 Thousand Dollars (\$200,000.00) ~~+~~ or

18 ~~3.~~ c. One Million Dollars (\$1,000,000.00) for any number of
19 claims arising out of a single occurrence or accident.

20 2. a. The court shall award court costs and reasonable
21 attorney and expert witness fees to a prevailing
22 plaintiff in any trial or appellate proceeding under
23 The Governmental Tort Claims Act.

1 b. The court may award reasonable attorney and expert
2 witness fees to a defendant who prevails in an action
3 under The Governmental Tort Claims Act if the court
4 determines that the plaintiff had no reasonable basis
5 for asserting a claim or appealing an adverse decision
6 of a trial court or administrative law judge. Fees
7 awarded under this subparagraph shall not exceed
8 Twenty-five Thousand Dollars (\$25,000.00).

9 B. 1. Beginning on May 28, 2003, claims shall be allowed for
10 wrongful criminal felony conviction resulting in imprisonment if the
11 claimant has received a full pardon on the basis of a written
12 finding by the Governor of actual innocence for the crime for which
13 the claimant was sentenced or has been granted judicial relief
14 absolving the claimant of guilt on the basis of actual innocence of
15 the crime for which the claimant was sentenced. The Governor or the
16 court shall specifically state, in the pardon or order, the evidence
17 or basis on which the finding of actual innocence is based.

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

21 a. the individual was charged, by indictment or
22 information, with the commission of a public offense
23 classified as a felony,

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

3 3. A claimant shall not be entitled to compensation for any
4 part of a sentence in prison during which the claimant was also
5 serving a concurrent sentence for a crime not covered by this
6 subsection.

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

12 5. The provisions of this subsection shall apply to convictions
13 occurring on or before May 28, 2003, as well as convictions
14 occurring after May 28, 2003. If a court of competent jurisdiction
15 finds that retroactive application of this subsection is
16 unconstitutional, the prospective application of this subsection
17 shall remain valid.

18 C. No award for damages in an action or any claim against the
19 state or a political subdivision shall include punitive or exemplary
20 damages.

21 D. When the amount awarded to or settled upon multiple
22 claimants exceeds the limitations of this section, any party may
23 apply to the district court which has jurisdiction of the cause to
24 apportion to each claimant the claimant's proper share of the total
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1 amount as limited herein. The share apportioned to each claimant
2 shall be in the proportion that the ratio of the award or settlement
3 made to him bears to the aggregate awards and settlements for all
4 claims against the state or its political subdivisions arising out
5 of the occurrence. When the amount of the aggregate losses
6 presented by a single claimant exceeds the limits of paragraph 1 or
7 2 of subsection A of this section, each person suffering a loss
8 shall be entitled to that person's proportionate share.

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

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 The
21 Governmental Tort Claims 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 3. AMENDATORY 51 O.S. 2021, Section 155, as
7 amended by Section 21, Chapter 228, O.S.L. 2022 (51 O.S. Supp. 2023,
8 Section 155), is amended to read as follows:

9 Section 155. ~~The~~ Unless the court finds by a preponderance of
10 the evidence that a loss or claim was the result of corruption,
11 fraud, gross negligence, or willful misconduct, the state or a
12 political subdivision shall not be liable if a loss or claim results
13 from:

- 14 1. Legislative functions;
- 15 2. Judicial, quasi-judicial, or prosecutorial functions, other
16 than claims for wrongful criminal felony conviction resulting in
17 imprisonment provided for in Section 154 of this title;
- 18 3. Execution or enforcement of the lawful orders of any court;
- 19 4. Adoption or enforcement of or failure to adopt or enforce a
20 law, whether valid or invalid, including, but not limited to, any
21 statute, charter provision, ordinance, resolution, rule, regulation
22 or written policy;
- 23
- 24
- 25

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

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

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

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

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

14 10. Natural conditions of property of the state or political
15 subdivision;

16 11. Assessment or collection of taxes or special assessments,
17 license or registration fees, or other fees or charges imposed by
18 law;

19 12. Licensing powers or functions including, but not limited
20 to, the issuance, denial, suspension or revocation of or failure or
21 refusal to issue, deny, suspend or revoke any permit, license,
22 certificate, approval, order or similar authority;

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

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

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

16 Nothing herein shall give rise to liability arising from the failure
17 of the state or any political subdivision to initially place any of
18 the above signs, signals or warning devices. The signs, signals and
19 warning devices referred to herein are those used in connection with
20 hazards normally connected with the use of roadways or public ways
21 and do not apply to the duty to warn of special defects such as
22 excavations or roadway obstructions;

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

24 17. Misrepresentation, if unintentional;

1 18. An act or omission of an independent contractor or
2 consultant or his or her employees, agents, subcontractors or
3 suppliers or of a person other than an employee of the state or
4 political subdivision at the time the act or omission occurred;

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

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

11 21. Participation in any activity approved by a local board of
12 education and held within a building or on the grounds of the school
13 district served by that local board of education before or after
14 normal school hours or on weekends;

15 22. Use of indoor or outdoor school property and facilities
16 made available for public recreation before or after normal school
17 hours or on weekends or school vacations, except those claims
18 resulting from willful and wanton acts of negligence. For purposes
19 of this paragraph:

20 a. "public" includes, but is not limited to, students
21 during nonschool hours and school staff when not
22 working as employees of the school, and

23 b. "recreation" means any indoor or outdoor physical
24 activity, either organized or unorganized, undertaken

1 for exercise, relaxation, diversion, sport or
2 pleasure, and that is not otherwise covered by
3 paragraph 20 or 21 of this section;

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

9 24. The activities of the state military forces when on state
10 active duty orders or on Title 32 active duty orders;

11 25. Provision, equipping, operation or maintenance of any
12 prison, jail or correctional facility, or injuries resulting from
13 the parole or escape of a prisoner or injuries by a prisoner to any
14 other prisoner; provided, however, this provision shall not apply to
15 claims from individuals not in the custody of the Department of
16 Corrections based on accidents involving motor vehicles owned or
17 operated by the Department of Corrections;

18 26. Provision, equipping, operation or maintenance of any
19 juvenile detention facility, or injuries resulting from the escape
20 of a juvenile detainee, or injuries by a juvenile detainee to any
21 other juvenile detainee;

22 27. Any claim or action based on the theory of manufacturer's
23 products liability or breach of warranty, either expressed or
24 implied;

1 28. Any claim or action based on the theory of indemnification
2 or subrogation; provided, however, a political subdivision as
3 defined in subparagraph s of paragraph 11 of Section 152 of this
4 title may enter into a contract with a contract operator or any
5 railroad operating in interstate commerce that sells a property
6 interest or provides services to a regional transportation
7 authority, or allows the regional transportation authority to use
8 the railroad's property or tracks for the provision of public
9 passenger rail service, providing for the allocation of financial
10 responsibility, indemnification, or the procurement of insurance for
11 the parties for all types of claims or damages, provided that funds
12 have been appropriated to cover the resulting contractual obligation
13 at the time the contract is executed. The acquisition of commercial
14 liability insurance to cover the activities of the regional
15 transportation authority, contract operator or railroad shall not
16 operate as a waiver of any of the liabilities, immunities or
17 defenses provided for political subdivisions pursuant to the
18 provisions of The Governmental Tort Claims Act. A contract entered
19 into under this paragraph shall not affect rights of employees under
20 the Federal Employers Liability Act or the Federal Railway Labor
21 Act;

22 29. Any claim based upon an act or omission of an employee in
23 the placement of children;
24
25

1 30. Acts or omissions done in conformance with then current
2 recognized standards;

3 31. Maintenance of the state highway system or any portion
4 thereof unless the claimant presents evidence which establishes
5 either that the state failed to warn of the unsafe condition or that
6 the loss would not have occurred but for a negligent affirmative act
7 of the state;

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

13 33. Any court-ordered community sentence;

14 34. Remedial action and any subsequent related maintenance of
15 property pursuant to and in compliance with an authorized
16 environmental remediation program, order, or requirement of a
17 federal or state environmental agency;

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

22 36. Actions taken in good faith by a school district employee
23 for the out-of-school suspension of a student pursuant to applicable
24 Oklahoma Statutes; or
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37. Use of a public facility opened to the general public during an emergency.

SECTION 4. This act shall become effective November 1, 2024.

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