

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 213

6 By: Howard

7 COMMITTEE SUBSTITUTE

8 An Act relating to The Governmental Tort Claims Act;
9 amending 51 O.S. 2021, Sections 152, as last amended
10 by Section 111, Chapter 452, O.S.L. 2024, and 154 (51
11 O.S. Supp. 2024. Section 152), which relate to
12 definitions and extent of liability; modifying
13 definitions; increasing limits on liability for
14 certain claims; updating statutory language; updating
15 statutory reference; and providing an effective date.

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

17 SECTION 1. AMENDATORY 51 O.S. 2021, Section 152, as last
18 amended by Section 111, Chapter 452, O.S.L. 2024 (51 O.S. Supp.
19 2024, Section 152), is amended to read as follows:

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

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

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

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

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

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

- 16 a. any person holding an interest in real or personal
17 property which suffers a loss, provided that the claim
18 of the person shall be aggregated with claims of all
19 other persons holding an interest in the property and
20 the claims of all other persons which are derivative
21 of the loss, and that multiple claimants shall be
22 considered a single claimant,
- 23 b. the individual actually involved in the accident or
24 occurrence who suffers a loss, provided that the

1 individual shall aggregate in the claim the losses of
2 all other persons which are derivative of the loss, or
3 c. in the case of death, an administrator, special
4 administrator or a personal representative who shall
5 aggregate in the claim all losses of all persons which
6 are derivative of the death;

7 6. "Community health care provider" means:

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

1 application, or, if denied, a new application, no
2 later than six (6) months from the date of the
3 official notification from the U.S. Department of
4 Health and Human Services requiring resubmission of a
5 new application;

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

10 a. Employee also includes:

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

18 (2) from September 1, 1991, through June 30, 1996,
19 licensed physicians, licensed osteopathic
20 physicians and certified nurse-midwives providing
21 prenatal, delivery or infant care services to
22 State Department of Health clients pursuant to a
23 contract entered into with the State Department
24 of Health in accordance with paragraph 3 of

1 subsection B of Section 1-106 of Title 63 of the
2 Oklahoma Statutes but only insofar as services
3 authorized by and in conformity with the terms of
4 the contract and the requirements of Section 1-
5 233 of Title 63 of the Oklahoma Statutes, and

6 (3) any volunteer, full-time or part-time firefighter
7 when performing duties for a fire department
8 provided for in subparagraph j of paragraph 11 of
9 this section.

10 b. For the purposes of The Governmental Tort Claims Act,
11 the following are employees of this state, regardless
12 of the place in this state where duties as employees
13 are performed:

14 (1) physicians acting in an administrative capacity,

15 (2) resident physicians and resident interns
16 participating in a graduate medical education

17 program of the University of Oklahoma Health

18 Sciences Center, the College of Osteopathic

19 Medicine of Oklahoma State University, or the

20 Department of Mental Health and Substance Abuse
21 Services,

22 (3) faculty members and staff of the University of
23 Oklahoma Health Sciences Center and the College
24

1 of Osteopathic Medicine of Oklahoma State

2 University, while engaged in teaching duties,

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

6 (5) physicians who provide medical care to inmates
7 pursuant to a contract with the Department of
8 Corrections,

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

22 (7) licensed medical professionals under contract
23 with city, county, or state entities who provide
24

1 medical care to inmates or detainees in the
2 custody or control of law enforcement agencies,
3 (8) licensed mental health professionals as defined
4 in Sections 1-103 and 5-502 of Title 43A of the
5 Oklahoma Statutes, who are conducting initial
6 examinations of individuals for the purpose of
7 determining whether an individual meets the
8 criteria for emergency detention as part of a
9 contract with the Department of Mental Health and
10 Substance Abuse Services, and

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

19 Physician faculty members and physician staff of the
20 University of Oklahoma Health Sciences Center and the
21 College of Osteopathic Medicine of Oklahoma State
22 University not acting in an administrative capacity or
23 engaged in teaching duties are not employees or agents
24 of the state.

1 c. For the purposes of The Governmental Tort Claims Act,
2 employee shall include independent contractors and
3 employees of independent contractors while actively
4 engaged in the transport of individuals in need of
5 initial assessment, emergency detention, or protective
6 custody as authorized by Section 1-110 of Title 43A of
7 the Oklahoma Statutes.

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

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

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

21 9. "Medically indigent" means a person requiring medically
22 necessary hospital or other health care services for the person or
23 the dependents of the person who has no public or private third-

1 party coverage, and whose personal resources are insufficient to
2 provide for needed health care;

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

5 11. "Political subdivision" means:

6 a. a municipality,

7 b. a school district, including, but not limited to, a
8 technology center school district established pursuant
9 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of
10 the Oklahoma Statutes, or a public library as defined
11 pursuant to Section 1-104 of Title 65 of the Oklahoma
12 Statutes,

13 c. a county,

14 d. a public trust where the sole beneficiary or
15 beneficiaries are a city, town, school district or
16 county. For purposes of The Governmental Tort Claims
17 Act, a public trust shall include:

18 (1) a municipal hospital created pursuant to Sections
19 30-101 through 30-109 of Title 11 of the Oklahoma
20 Statutes, a county hospital created pursuant to
21 Sections 781 through 796 of Title 19 of the
22 Oklahoma Statutes, or is created pursuant to a
23 joint agreement between such governing
24 authorities, that is operated for the public

1 benefit by a public trust created pursuant to
2 Sections 176 through 180.4 of Title 60 of the
3 Oklahoma Statutes and managed by a governing
4 board appointed or elected by the municipality,
5 county, or both, who exercises control of the
6 hospital, subject to the approval of the
7 governing body of the municipality, county, or
8 both,

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

18 (3) a corporation in which all of the capital stock
19 is owned, or a limited liability company in which
20 all of the member interest is owned, by a public
21 trust,

22 e. for the purposes of The Governmental Tort Claims Act
23 only, a housing authority created pursuant to the
24 provisions of the Oklahoma Housing Authorities Act,

- 1 f. for the purposes of The Governmental Tort Claims Act
2 only, corporations organized not for profit pursuant
3 to the provisions of the Oklahoma General Corporation
4 Act for the primary purpose of developing and
5 providing rural water supply and sewage disposal
6 facilities to serve rural residents,
- 7 g. for the purposes of The Governmental Tort Claims Act
8 only, districts formed pursuant to the Rural Water,
9 Sewer, Gas and Solid Waste Management Districts Act,
- 10 h. for the purposes of The Governmental Tort Claims Act
11 only, master conservancy districts formed pursuant to
12 the Conservancy Act of Oklahoma,
- 13 i. for the purposes of The Governmental Tort Claims Act
14 only, a fire protection district created pursuant to
15 the provisions of Section 901.1 et seq. of Title 19 of
16 the Oklahoma Statutes,
- 17 j. for the purposes of The Governmental Tort Claims Act
18 only, a benevolent or charitable corporate volunteer
19 or full-time fire department for an unincorporated
20 area created pursuant to the provisions of Section 592
21 et seq. of Title 18 of the Oklahoma Statutes,
- 22 k. for purposes of The Governmental Tort Claims Act only,
23 an Emergency Services Provider rendering services
24 within the boundaries of a Supplemental Emergency

1 Services District pursuant to an existing contract
2 between the Emergency Services Provider and the State
3 Department of Health. Provided, however, that the
4 acquisition of commercial liability insurance covering
5 the activities of such Emergency Services Provider
6 performed within this state shall not operate as a
7 waiver of any of the limitations, immunities or
8 defenses provided for political subdivisions pursuant
9 to the terms of The Governmental Tort Claims Act,

10 l. for purposes of The Governmental Tort Claims Act only,
11 a conservation district created pursuant to the
12 provisions of the Conservation District Act,

13 m. for purposes of The Governmental Tort Claims Act,
14 districts formed pursuant to the Oklahoma Irrigation
15 District Act,

16 n. for purposes of The Governmental Tort Claims Act only,
17 any community action agency established pursuant to
18 Sections 5035 through 5040 of Title 74 of the Oklahoma
19 Statutes,

20 o. for purposes of The Governmental Tort Claims Act only,
21 any organization that is designated as a youth
22 services agency, pursuant to Section 2-7-306 of Title
23 10A of the Oklahoma Statutes,

24

- 1 p. for purposes of The Governmental Tort Claims Act only,
2 any judge presiding over a drug court, as defined by
3 Section 471.1 of Title 22 of the Oklahoma Statutes,
- 4 q. for purposes of The Governmental Tort Claims Act only,
5 any child-placing agency licensed by this state to
6 place children in foster family homes,
- 7 r. for purposes of The Governmental Tort Claims Act only,
8 a circuit engineering district created pursuant to
9 Section 687.1 of Title 69 of the Oklahoma Statutes,
- 10 s. for purposes of the Governmental Tort Claims Act only,
11 a substate planning district, regional council of
12 government or other entity created pursuant to Section
13 1001 et seq. of Title 74 of the Oklahoma Statutes, and
- 14 t. for purposes of The Governmental Tort Claims Act only,
15 a regional transportation authority created pursuant
16 to Section 1370.7 of Title 68 of the Oklahoma Statutes
17 including its contract operator and any railroad
18 operating in interstate commerce that sells a property
19 interest or provides services to a regional
20 transportation authority or allows the authority to
21 use the property or tracks of the railroad for the
22 provision of public passenger rail service to the
23 extent claims against the contract operator or
24 railroad arise out of or are related to or in

1 connection with such property interest, services or
2 operation of the public passenger rail service.
3 Provided, the acquisition of commercial liability
4 insurance to cover the activities of the regional
5 transportation authority, contract operator or
6 railroad shall not operate as a waiver of any
7 liabilities, immunities or defenses provided pursuant
8 to the provisions of the Governmental Tort Claims Act,
9 and

10 u. for purposes of The Governmental Tort Claims Act only,
11 a not-for-profit corporation in which all of the
12 membership interest is owned by a public trust created
13 pursuant to Sections 176 through 180.4 of Title 60 of
14 the Oklahoma Statutes, and pursuant to Section 3201 et
15 seq. of Title 63 of the Oklahoma Statutes,

16 and all their institutions, instrumentalities or agencies;

17 12. "Scope of employment" means performance by an employee
18 acting in good faith within the duties of the employee's office or
19 employment or of tasks lawfully assigned by a competent authority
20 including the operation or use of an agency vehicle or equipment
21 with actual or implied consent of the supervisor of the employee,
22 but shall not include corruption or fraud;

23 13. "State" means the State of Oklahoma or any office,
24 department, agency, authority, commission, board, institution,

1 hospital, college, university, public trust created pursuant to
2 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is
3 the beneficiary, or other instrumentality thereof;

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

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

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

10 17. "Tort" means a legal wrong, independent of contract,
11 involving violation of a duty imposed by general law, statute, the
12 Constitution of the State of Oklahoma, or otherwise, resulting in a
13 loss to any person, association or corporation as the proximate
14 result of an act or omission of a political subdivision or the state
15 or an employee acting within the scope of employment; provided,
16 however, a tort shall not include a claim for inverse condemnation.

17 SECTION 2. AMENDATORY 51 O.S. 2021, 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 October 1, 1985, Section 151 et seq. of
23 this title, shall not exceed:

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1 1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Seventy-five
2 Thousand Dollars (\$75,000.00) for any claim or to any claimant who
3 has more than one claim for loss of property arising out of a single
4 act, accident, or occurrence;

5 2. a. Eighty-five Thousand Dollars (\$85,000.00) to any
6 claimant for any number of claims for inconvenience,
7 annoyance, or discomfort in nuisance claims arising
8 out of a single act, accident, or occurrence in a
9 county with a population of less than one hundred
10 fifty thousand (150,000) according to the latest
11 Federal Decennial Census, or

12 b. One Hundred Forty Thousand Dollars (\$140,000.00) to
13 any claimant for any number of claims for
14 inconvenience, annoyance, or discomfort in nuisance
15 claims arising out of a single act, accident, or
16 occurrence in a county with a population of one
17 hundred fifty thousand (150,000) or more according to
18 the latest Federal Decennial Census;

19 3. Except as otherwise provided in this paragraph, ~~One Hundred~~
20 ~~Twenty-five Thousand Dollars (\$125,000.00)~~ Two Hundred Fifty
21 Thousand Dollars (\$250,000.00) to any claimant for a claim for any
22 other loss arising out of a single act, accident, or occurrence.
23 The limit of liability for the state or any city or county with a
24 population of ~~three hundred thousand (300,000)~~ one hundred fifty

1 thousand (150,000) or more according to the latest Federal Decennial
2 Census, or a political subdivision as defined in subparagraph s of
3 paragraph 11 of Section 152 of this title, shall not exceed ~~One~~
4 ~~Hundred Seventy-five Thousand Dollars (\$175,000.00)~~ Three Hundred
5 Seventy-five Thousand Dollars (\$375,000.00). Except however, the
6 limits of ~~the~~ liability for the University Hospitals and ~~State~~
7 ~~Mental Health Hospitals~~ state mental health hospitals operated by
8 the Department of Mental Health and Substance Abuse Services for
9 claims arising from medical negligence shall be ~~Two Hundred Thousand~~
10 ~~Dollars (\$200,000.00)~~ Three Hundred Thousand Dollars (\$300,000.00).
11 For claims arising from medical negligence by any licensed
12 physician, osteopathic physician or certified nurse-midwife
13 rendering prenatal, delivery or infant care services from September
14 1, 1991, through June 30, 1996, pursuant to a contract authorized by
15 subsection ~~B~~ C of Section 1-106 of Title 63 of the Oklahoma Statutes
16 and in conformity with the requirements of Section 1-233 of Title 63
17 of the Oklahoma Statutes, the limits of ~~the~~ liability shall be Two
18 Hundred Thousand Dollars (\$200,000.00); ~~or~~
19 ~~3.~~ 4. One Million Dollars (\$1,000,000.00) for any number of
20 claims for indemnification pursuant to Section 162 of this title
21 arising out of a single occurrence or accident; or
22 5. Two Million Dollars (\$2,000,000.00) in the aggregate for any
23 number of claims arising out of a single occurrence or accident.

24

1 B. 1. Beginning on May 28, 2003, claims shall be allowed for
2 wrongful criminal felony conviction resulting in imprisonment if the
3 claimant has received a full pardon on the basis of a written
4 finding by the Governor of actual innocence for the crime for which
5 the claimant was sentenced or has been granted judicial relief
6 absolving the claimant of guilt on the basis of actual innocence of
7 the crime for which the claimant was sentenced. The Governor or the
8 court shall specifically state, in the pardon or order, the evidence
9 or basis on which the finding of actual innocence is based.

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

- 13 a. the individual was charged, by indictment or
14 information, with the commission of a public offense
15 classified as a felony,
- 16 b. the individual did not plead guilty to the offense
17 charged, or to any lesser included offense, but was
18 convicted of the offense,
- 19 c. the individual was sentenced to incarceration for a
20 term of imprisonment as a result of the conviction,
- 21 d. the individual was imprisoned solely on the basis of
22 the conviction for the offense, and
- 23 e. (1) in the case of a pardon, a determination was made
24 by either the Pardon and Parole Board or the

1 Governor that the offense for which the
2 individual was convicted, sentenced and
3 imprisoned, including any lesser offenses, was
4 not committed by the individual, or

5 (2) in the case of judicial relief, a court of
6 competent jurisdiction found by clear and
7 convincing evidence that the offense for which
8 the individual was convicted, sentenced and
9 imprisoned, including any lesser included
10 offenses, was not committed by the individual and
11 issued an order vacating, dismissing or reversing
12 the conviction and sentence and providing that no
13 further proceedings can be or will be held
14 against the individual on any facts and
15 circumstances alleged in the proceedings which
16 had resulted in the conviction.

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

21 4. The total liability of the state and its political
22 subdivisions on any claim within the scope of The Governmental Tort
23 Claims Act arising out of wrongful criminal felony conviction
24

1 resulting in imprisonment shall not exceed One Hundred Seventy-five
2 Thousand Dollars (\$175,000.00).

3 5. The provisions of this subsection shall apply to convictions
4 occurring on or before May 28, 2003, as well as convictions
5 occurring after May 28, 2003. If a court of competent jurisdiction
6 finds that retroactive application of this subsection is
7 unconstitutional, the prospective application of this subsection
8 shall remain valid.

9 C. No award for damages in an action or any claim against the
10 state or a political subdivision shall include punitive or exemplary
11 damages.

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

1 E. The total liability of resident physicians and interns while
2 participating in a graduate medical education program of the
3 University of Oklahoma College of Medicine, its affiliated
4 institutions and the Oklahoma State University College of
5 Osteopathic Medicine ~~and Surgery~~ shall not exceed ~~One Hundred~~
6 ~~Thousand Dollars (\$100,000.00)~~ One Hundred Fifty Thousand Dollars
7 (\$150,000.00).

8 F. The total liability of a public trust hospital and physician
9 for the acts of a physician who provides medical services on the
10 premises of a public trust hospital as defined pursuant to Section
11 152 of this title, that is located in a county with a population of
12 less than seventy-five thousand (75,000) according to the latest
13 Federal Decennial Census, but who is not employed by such hospital,
14 shall not exceed One Million Dollars (\$1,000,000.00). If the
15 physician is employed by another group or entity not under the sole
16 or majority control of the physician, the total limit of liability
17 of the physician and hospital shall be the higher coverage afforded
18 by the liability policy or self-insurance or assets of that group or
19 entity.

20 G. The state or a political subdivision may petition the court
21 that all parties and actions arising out of a single accident or
22 occurrence shall be joined as provided by law, and upon order of the
23 court the proceedings upon good cause shown shall be continued for a
24 reasonable time or until such joinder has been completed. The state

1 or political subdivision shall be allowed to interplead in any
2 action which may impose on it any duty or liability pursuant to The
3 Governmental Tort Claims Act.

4 ~~G.~~ H. The liability of the state or political subdivision under
5 The Governmental Tort Claims Act shall be several from that of any
6 other person or entity, and the state or political subdivision shall
7 only be liable for that percentage of total damages that corresponds
8 to its percentage of total negligence. Nothing in this section
9 shall be construed as increasing the liability limits imposed on the
10 state or political subdivision under The Governmental Tort Claims
11 Act.

12 SECTION 3. This act shall become effective November 1, 2025.

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