

1 **SENATE FLOOR VERSION**

2 February 25, 2025

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 213

6 By: Howard

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

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

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

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

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

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

25 3. "Charitable health care provider" means a person who is
26 licensed, certified, or otherwise authorized by the laws of this

1 state to administer health care in the ordinary course of business
2 or the practice of a profession and who provides care to a medically
3 indigent person, as defined in paragraph 9 of this section, with no
4 expectation of or acceptance of compensation of any kind;

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

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

14 a. any person holding an interest in real or personal
15 property which suffers a loss, provided that the claim
16 of the person shall be aggregated with claims of all
17 other persons holding an interest in the property and
18 the claims of all other persons which are derivative
19 of the loss, and that multiple claimants shall be
20 considered a single claimant,

21 b. the individual actually involved in the accident or
22 occurrence who suffers a loss, provided that the
23 individual shall aggregate in the claim the losses of
24 all other persons which are derivative of the loss, or

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

5 6. "Community health care provider" means:

6 a. a health care provider who volunteers services at a
7 community health center that has been deemed by the
8 U.S. Department of Health and Human Services as a
9 federally qualified health center as defined by 42
10 U.S.C., Section 1396d(1)(2)(B),

11 b. a health provider who provides services to an
12 organization that has been deemed a federally
13 qualified look-alike community health center, and

14 c. a health care provider who provides services to a
15 community health center that has made application to
16 the U.S. Department of Health and Human Services for
17 approval and deeming as a federally qualified look-
18 alike community health center in compliance with
19 federal application guidance, and has received
20 comments from the U.S. Department of Health and Human
21 Services as to the status of such application with the
22 established intent of resubmitting a modified
23 application, or, if denied, a new application, no
24 later than six (6) months from the date of the

1 official notification from the U.S. Department of
2 Health and Human Services requiring resubmission of a
3 new application;

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

8 a. Employee also includes:

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

16 (2) from September 1, 1991, through June 30, 1996,
17 licensed physicians, licensed osteopathic
18 physicians and certified nurse-midwives providing
19 prenatal, delivery or infant care services to
20 State Department of Health clients pursuant to a
21 contract entered into with the State Department
22 of Health in accordance with paragraph 3 of
23 subsection B of Section 1-106 of Title 63 of the
24 Oklahoma Statutes but only insofar as services

1 authorized by and in conformity with the terms of
2 the contract and the requirements of Section 1-
3 233 of Title 63 of the Oklahoma Statutes, and
4 (3) any volunteer, full-time or part-time firefighter
5 when performing duties for a fire department
6 provided for in subparagraph j of paragraph 11 of
7 this section.

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

12 (1) physicians acting in an administrative capacity,

13 (2) resident physicians and resident interns
14 participating in a graduate medical education
15 program of the University of Oklahoma Health
16 Sciences Center, the College of Osteopathic
17 Medicine of Oklahoma State University, or the
18 Department of Mental Health and Substance Abuse
19 Services,

20 (3) faculty members and staff of the University of
21 Oklahoma Health Sciences Center and the College
22 of Osteopathic Medicine of Oklahoma State
23 University, while engaged in teaching duties,
24

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

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

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

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

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

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

23 c. For the purposes of The Governmental Tort Claims Act,
24 employee shall include independent contractors and

1 employees of independent contractors while actively
2 engaged in the transport of individuals in need of
3 initial assessment, emergency detention, or protective
4 custody as authorized by Section 1-110 of Title 43A of
5 the Oklahoma Statutes.

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

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

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

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

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

3 11. "Political subdivision" means:

4 a. a municipality,

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

11 c. a county,

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

16 (1) a municipal hospital created pursuant to Sections
17 30-101 through 30-109 of Title 11 of the Oklahoma
18 Statutes, a county hospital created pursuant to
19 Sections 781 through 796 of Title 19 of the
20 Oklahoma Statutes, or is created pursuant to a
21 joint agreement between such governing
22 authorities, that is operated for the public
23 benefit by a public trust created pursuant to
24 Sections 176 through 180.4 of Title 60 of the

1 Oklahoma Statutes and managed by a governing
2 board appointed or elected by the municipality,
3 county, or both, who exercises control of the
4 hospital, subject to the approval of the
5 governing body of the municipality, county, or
6 both,

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

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

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

23 f. for the purposes of The Governmental Tort Claims Act
24 only, corporations organized not for profit pursuant

1 to the provisions of the Oklahoma General Corporation
2 Act for the primary purpose of developing and
3 providing rural water supply and sewage disposal
4 facilities to serve rural residents,

5 g. for the purposes of The Governmental Tort Claims Act
6 only, districts formed pursuant to the Rural Water,
7 Sewer, Gas and Solid Waste Management Districts Act,

8 h. for the purposes of The Governmental Tort Claims Act
9 only, master conservancy districts formed pursuant to
10 the Conservancy Act of Oklahoma,

11 i. for the purposes of The Governmental Tort Claims Act
12 only, a fire protection district created pursuant to
13 the provisions of Section 901.1 et seq. of Title 19 of
14 the Oklahoma Statutes,

15 j. for the purposes of The Governmental Tort Claims Act
16 only, a benevolent or charitable corporate volunteer
17 or full-time fire department for an unincorporated
18 area created pursuant to the provisions of Section 592
19 et seq. of Title 18 of the Oklahoma Statutes,

20 k. for purposes of The Governmental Tort Claims Act only,
21 an Emergency Services Provider rendering services
22 within the boundaries of a Supplemental Emergency
23 Services District pursuant to an existing contract
24 between the Emergency Services Provider and the State

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

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

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

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

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

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

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

1 insurance to cover the activities of the regional
2 transportation authority, contract operator or
3 railroad shall not operate as a waiver of any
4 liabilities, immunities or defenses provided pursuant
5 to the provisions of the Governmental Tort Claims Act,
6 and

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

13 and all their institutions, instrumentalities or agencies;

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

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

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

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

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

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

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

16 Section 154. A. The total liability of the state and its
17 political subdivisions on claims within the scope of The
18 Governmental Tort Claims Act, arising out of an accident or
19 occurrence happening after October 1, 1985, Section 151 et seq. of
20 this title, shall not exceed:

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

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

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

15 3. Except as otherwise provided in this paragraph, ~~One Hundred~~
16 ~~Twenty-five Thousand Dollars (\$125,000.00)~~ Two Hundred Fifty
17 Thousand Dollars (\$250,000.00) to any claimant for a claim for any
18 other loss arising out of a single act, accident, or occurrence.
19 The limit of liability for the state or any city or county with a
20 population of ~~three hundred thousand (300,000)~~ one hundred fifty
21 thousand (150,000) or more according to the latest Federal Decennial
22 Census, or a political subdivision as defined in subparagraph s of
23 paragraph 11 of Section 152 of this title, shall not exceed ~~One~~
24 ~~Hundred Seventy-five Thousand Dollars (\$175,000.00)~~ Three Hundred

1 Seventy-five Thousand Dollars (\$375,000.00). Except however, the
2 limits of ~~the~~ liability for the University Hospitals and ~~State~~
3 ~~Mental Health Hospitals~~ state mental health hospitals operated by
4 the Department of Mental Health and Substance Abuse Services for
5 claims arising from medical negligence shall be ~~Two Hundred Thousand~~
6 ~~Dollars (\$200,000.00)~~ Three Hundred Thousand Dollars (\$300,000.00).
7 For claims arising from medical negligence by any licensed
8 physician, osteopathic physician or certified nurse-midwife
9 rendering prenatal, delivery or infant care services from September
10 1, 1991, through June 30, 1996, pursuant to a contract authorized by
11 subsection ~~B~~ C of Section 1-106 of Title 63 of the Oklahoma Statutes
12 and in conformity with the requirements of Section 1-233 of Title 63
13 of the Oklahoma Statutes, the limits of ~~the~~ liability shall be Two
14 Hundred Thousand Dollars (\$200,000.00); ~~or~~

15 ~~3.~~ 4. One Million Dollars (\$1,000,000.00) for any number of
16 claims for indemnification pursuant to Section 162 of this title
17 arising out of a single occurrence or accident; or

18 5. Two Million Dollars (\$2,000,000.00) in the aggregate for any
19 number of claims arising out of a single occurrence or accident.

20 B. 1. Beginning on May 28, 2003, claims shall be allowed for
21 wrongful criminal felony conviction resulting in imprisonment if the
22 claimant has received a full pardon on the basis of a written
23 finding by the Governor of actual innocence for the crime for which
24 the claimant was sentenced or has been granted judicial relief

1 absolving the claimant of guilt on the basis of actual innocence of
2 the crime for which the claimant was sentenced. The Governor or the
3 court shall specifically state, in the pardon or order, the evidence
4 or basis on which the finding of actual innocence is based.

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

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

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

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

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

22 5. The provisions of this subsection shall apply to convictions
23 occurring on or before May 28, 2003, as well as convictions
24 occurring after May 28, 2003. If a court of competent jurisdiction

1 finds that retroactive application of this subsection is
2 unconstitutional, the prospective application of this subsection
3 shall remain valid.

4 C. No award for damages in an action or any claim against the
5 state or a political subdivision shall include punitive or exemplary
6 damages.

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

20 E. The total liability of resident physicians and interns while
21 participating in a graduate medical education program of the
22 University of Oklahoma College of Medicine, its affiliated
23 institutions and the Oklahoma State University College of
24 Osteopathic Medicine and ~~Surgery~~ shall not exceed ~~One Hundred~~

1 ~~Thousand Dollars (\$100,000.00)~~ One Hundred Fifty Thousand Dollars
2 (\$150,000.00).

3 F. The total liability of a public trust hospital and physician
4 for the acts of a physician who provides medical services on the
5 premises of a public trust hospital as defined pursuant to Section
6 152 of this title, that is located in a county with a population of
7 less than seventy-five thousand (75,000) according to the latest
8 Federal Decennial Census, but who is not employed by such hospital,
9 shall not exceed One Million Dollars (\$1,000,000.00). If the
10 physician is employed by another group or entity not under the sole
11 or majority control of the physician, the total limit of liability
12 of the physician and hospital shall be the higher coverage afforded
13 by the liability policy or self-insurance or assets of that group or
14 entity.

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

23 ~~G.~~ H. The liability of the state or political subdivision under
24 The Governmental Tort Claims Act shall be several from that of any

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
9 February 25, 2025 - DO PASS AS AMENDED BY CS

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