

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
FOR  
4 SENATE BILL 213

By: Howard

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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  
definitions and extent of liability; modifying  
definitions; increasing limits on liability for  
certain claims; updating statutory language; updating  
statutory reference; and providing an effective date.

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

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

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

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

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

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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(l)(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

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

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

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

(1) physicians acting in an administrative capacity,

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

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

of Osteopathic Medicine of Oklahoma State University, while engaged in teaching duties,

- (4) physicians who practice medicine or act in an administrative capacity as an employee of an agency of the State of Oklahoma,
  - (5) physicians who provide medical care to inmates pursuant to a contract with the Department of Corrections,
  - (6) any person who is licensed to practice medicine pursuant to Title 59 of the Oklahoma Statutes, who is under an administrative professional services contract with the Oklahoma Health Care Authority under the auspices of the Oklahoma Health Care Authority Chief Medical Officer, and who is limited to performing administrative duties such as professional guidance for medical reviews, reimbursement rates, service utilization, health care delivery and benefit design for the Oklahoma Health Care Authority, only while acting within the scope of such contract,
  - (7) licensed medical professionals under contract with city, county, or state entities who provide

medical care to inmates or detainees in the custody or control of law enforcement agencies,

- (8) licensed mental health professionals as defined in Sections 1-103 and 5-502 of Title 43A of the Oklahoma Statutes, who are conducting initial examinations of individuals for the purpose of determining whether an individual meets the criteria for emergency detention as part of a contract with the Department of Mental Health and Substance Abuse Services, and
  - (9) licensed mental health professionals as defined in Sections 1-103 and 5-502 of Title 43A of the Oklahoma Statutes, who are providing mental health or substance abuse treatment services under a professional services contract with the Department of Mental Health and Substance Abuse Services and are providing such treatment services at a state-operated facility.

Physician faculty members and physician staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University not acting in an administrative capacity or engaged in teaching duties are not employees or agents 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-

24

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

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

11. "Political subdivision" means:

- a. a municipality,
  - b. a school district, including, but not limited to, a technology center school district established pursuant to Section 4410, 4411, 4420 or 4420.1 of Title 70 of the Oklahoma Statutes, or a public library as defined pursuant to Section 1-104 of Title 65 of the Oklahoma Statutes,
  - c. a county,
  - d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of The Governmental Tort Claims Act, a public trust shall include:
    - (1) a municipal hospital created pursuant to Sections 30-101 through 30-109 of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Sections 781 through 796 of Title 19 of the Oklahoma Statutes, or is created pursuant to a joint agreement between such governing authorities, that is operated for the public

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

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

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

e. for the purposes of The Governmental Tort Claims Act only, a housing authority created pursuant to the 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,

- 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:

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.

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

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       E. 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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