

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1164

BY: ROACH

AS INTRODUCED

AN ACT RELATING TO TORTS; AMENDING 76 O.S. 1981,

SECTION 21, WHICH RELATES TO A PRESUMPTION OF  
NEGLIGENCE IN CERTAIN ACTIONS; PROHIBITING ANY  
REQUIREMENT THAT CERTAIN FACTS BE ESTABLISHED BY  
EXPERT TESTIMONY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 76 O.S. 1981, Section 21, is amended to read as follows:

Section 21. A. In any action arising from negligence in the rendering of medical care, a presumption of negligence shall arise if the following foundation facts are first established:

1. The plaintiff sustained any injury;
2. Said injury was proximately caused by an instrumentality solely within the control of the defendant or defendants; and
3. Such injury does not ordinarily occur under the circumstances absent negligence on the part of the defendant.

~~If any such fact, in the discretion of the court, requires a degree of knowledge or skill not possessed by the average person, then in that event such fact must be established by expert testimony~~

B. Expert testimony shall not be required to establish the foundation facts listed in subsection A of this section.

SECTION 2. This act shall become effective September 1, 1991.

43-1-5888

SCE