

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 263

BY: LONG (Lewis) of the SENATE

and

ROACH of the HOUSE

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.

43-1-386

MHR