

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1269

By: Trebilcock and Liotta of
the House

and

Pruitt of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to civil procedure; allowing municipal clerks or deputies to issue or process any judicial process under certain agreement; amending 12 O.S. 2001, Section 139, which relates to venue when creditor has assigned right; removing certain exception; amending 12 O.S. 2001, Section 706.2, which relates to judgments; providing that certain money amount be determined by court order upon application; modifying certain statement; providing certain duty; adding certain recipient of certain mailed notice; extending number of days to object; providing certain restriction on extension; amending 12 O.S. 2001, Section 721, which relates to foreign judgment; modifying requirements for filing certain judgments for specified purpose; amending 12 O.S. 2001, Section 842, which relates to debtor's appearance and disclosure of assets; allowing a judge to authorize issuance of either a contempt citation or bench warrant under certain circumstances; providing penalty for certain actions of persons; amending 12 O.S. 2001, Section 990.4, which relates to stay of enforcement; clarifying designation of certain manufacturer; amending 12 O.S. 2001, Section 1148.14, which relates to forcible entry and detainer action; providing that certain actions pertaining to certain dwellings be directed to small claims docket; amending 12 O.S. 2001, Sections 1172, 1173.4 and 1174, which relate to garnishment proceedings; modifying certain prejudgment garnishment procedures; clarifying certain postjudgment amount; modifying calculation of certain postjudgment amount; clarifying the effect of certain actions on a garnishment lien; modifying certain procedure for providing notice; amending 12 O.S. 2001, Section 1651, which relates to declaratory judgments; removing reference to certain delegations; providing requirements for certain persons bringing certain civil actions; directing the Administrative Director of the Courts to maintain certain registry; providing duties of certain counsel; providing penalty for violations of multiple prior actions; amending 23 O.S. 2001, Section 9.1, as amended by Section 1, Chapter 462, O.S.L. 2002 (23 O.S. Supp. 2002, Section 9.1), which relates to punitive damages; modifying

requirements for certain findings; amending 30 O.S. 2001, Sections 4-201 and 4-303, which relate to guardian's bond and settlement of accounts; modifying requirement for certain finding by court; modifying requirements for filing of certain report; amending 31 O.S. 2001, Section 1.1, which relates to exemptions from process; clarifying certain term; allowing a certain exemption under certain circumstances; amending 42 O.S. 2001, Sections 43, 46 and 49, which relate to liens; providing certain additional lien; providing conditions for effectiveness of certain lien; providing procedure for enforcement of certain lien; clarifying persons performing medical services; providing requirements of written notice; modifying person responsible for sending certain documents; providing statute of limitations for certain action; providing certain amount due to a claimant; amending 76 O.S. 2001, Section 5A, which relates to immunity from civil liability for medical care or treatment by use of automated external defibrillator; modifying certain qualifications; providing certain immunity to course directors and trainers; providing certain immunity to prescribing physicians under certain circumstances; providing certain duties of entities that own, lease, possess, or otherwise control an automated external defibrillator; adding certain definitions; repealing 42 O.S. 2001, Section 44, which relates to filing notice of lien; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 28.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, any judicial process which is allowed or required by law to be issued or processed by a district court clerk or deputy may be issued or processed by a duly appointed municipal court clerk or deputy when authorized by interlocal agreement entered into pursuant to Sections 1001 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 12 O.S. 2001, Section 139, is amended to read as follows:

Section 139. Every other action must be brought in the county in which the defendant or some one of the defendants resides or

resided at the time the claim arose, or may be summoned; ~~except claims against makers of notes, claims, or other indebtedness which have been assigned, sold or transferred by or from the original payee or obligee, which claims against such original maker of such notes, claims or indebtedness can only be brought in the county in which the said maker of such note, claim or indebtedness or some one of the original makers of such note, claim or indebtedness resides.~~ Provided provided, however, this section shall not in any way change or limit Section ~~4671 of the Revised Laws of Oklahoma, 1910~~ 131 of this title.

SECTION 3. AMENDATORY 12 O.S. 2001, Section 706.2, is amended to read as follows:

Section 706.2 In the event of an appeal from a money judgment granted by a court of this state, the lien of such judgment, and any lien by virtue of an attachment issued and levied in the action in which such judgment was granted, shall cease when the judgment debtor or debtors deposit with the clerk of the court in which such judgment was granted cash sufficient to cover the whole amount of the judgment, including interest, costs, and any attorneys fees, together with costs and interest on the appeal. ~~Such cash deposit shall be accompanied by a written statement executed by the judgment debtor or debtors~~ This amount shall be determined by court order upon application of the judgment debtor indicating that such deposit is made to discharge the lien of the judgment and any lien by virtue of an attachment issued and levied in the action. The cash deposit shall be accompanied by the statement of ownership required pursuant to Section 151.1 of Title 28 of the Oklahoma Statutes.

It shall be the duty of the judgment debtor to deliver the court order of deposit to the court clerk, department head or supervisor personally. Upon receipt of such a cash deposit, statement of ownership and ~~written statement~~ an order of the court directing deposit, it shall be the duty of the court clerk to immediately

record receipt of the ~~statement~~ order and the amount of the cash deposit upon the appearance docket in the cause. It also shall be the duty of the court clerk to place the cash deposit in the court clerk's official depository account and to hold the deposit in an interest-bearing account, unless otherwise ordered by the court, pending final determination of the action. The court clerk shall mail notice of receipt of the cash deposit to counsel for the judgment creditor or, if the judgment creditor is not represented by counsel, to the judgment creditor at the last-known address of the judgment creditor, which provided by the judgment debtor's application. The notice shall contain a statement that, if the judgment creditor does not file with the court a response or objection to the cash deposit within ~~fifteen (15)~~ twenty (20) days after the mailing of the notice to the judgment creditor, the judgment lien may be released. This objection period shall not be extended because of mailing time or for intervening weekends or holidays.

If no objection is filed with the court by the judgment creditor within ~~fifteen (15)~~ twenty (20) days after the mailing of the notice, the court clerk, upon request of the judgment debtor, shall prepare a Release of Judgment Lien for the judgment debtor on the form provided by the Administrative Director of the Courts. Instructions shall be printed on the Release of Judgment Lien advising the judgment debtor to file the Release in the office of the county clerk of the county in which the real estate is situated. The lien of the judgment upon real estate of the judgment debtor in a county shall be released when the Release of Judgment Lien is filed in the office of the county clerk of that county. The judgment debtor making the deposit shall pay all costs and recording fees relating to the release procedure.

Upon final determination of the appeal, the court may order the deposit together with accrued interest to be applied to any final

judgment granted against the depositor or depositors, and refund any balance in excess of the judgment to the depositor or depositors. In the event judgment against the depositor or depositors is reversed in its entirety, the whole amount of the cash deposit together with accrued interest shall be refunded to the depositor or depositors.

A judgment debtor may also apply to the district court where the judgment was rendered for an order releasing a judgment lien to permit a particular transfer of property otherwise subject to the judgment lien on such terms as the court deems proper for the protection of the parties. Such a release of judgment lien may be granted only upon notice to the judgment creditor and hearing, and if granted the court shall endeavor to fully protect the rights of the judgment creditor to the security otherwise afforded by the judgment lien, for example, by determining the adequacy of consideration for the property and directing that such consideration be deposited into the court registry as security for the judgment.

SECTION 4. AMENDATORY 12 O.S. 2001, Section 721, is amended to read as follows:

Section 721. A copy of any foreign judgment authenticated in accordance with the applicable Act of Congress or of the statutes of this state may be filed in the office of the court clerk of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of any county of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a district court of this state and may be enforced or satisfied in like manner. Provided, however, that no such filed foreign judgment shall be a lien on real estate of the judgment debtor until ~~a certified copy of the judgment so filed is also filed in the office of the county clerk in the county~~

~~where the real estate is located~~ the judgment creditor complies with the requirements of subsection B of Section 706 of this title.

SECTION 5. AMENDATORY 12 O.S. 2001, Section 842, is amended to read as follows:

Section 842. A. At any time after a final judgment, order, or decree is filed, on application of the judgment creditor, a judge of the court in which the final judgment, order, or decree was rendered shall order the judgment debtor to appear before the judge, or a referee appointed by the judge, at a time and place specified in the order, to answer concerning the judgment debtor's property. The judge may, by order, enjoin the judgment debtor from alienating, concealing, or encumbering any of the judgment debtor's nonexempt property pending the hearing and further order of the court. Upon the judgment debtor's disclosure of any nonexempt property, proceedings as provided by law may be had for the application of the property to the satisfaction of the judgment. If the judgment debtor is personally served with an order to appear pursuant to this section, the judge issuing the order may authorize the issuance of either a contempt citation or a bench warrant for the judgment debtor's failure to comply with the order.

B. At any time after a final judgment, order, or decree is filed, an attorney for a judgment creditor may:

1. Subpoena the judgment debtor, pursuant to Section 2004.1 of this title, to appear at any place in the county in which the judgment, order, or decree was rendered, or the judgment debtor's county of residence, to answer concerning the judgment debtor's property, income, or liabilities, or to produce documents concerning the debtor's property, income, or liabilities. The judgment debtor shall not be entitled to an attendance fee or mileage;

2. Subpoena any person, pursuant to Section 2004.1 of this title, to appear at any place in the county where the person is located, or where service may otherwise be had on the person, to

answer concerning the judgment debtor's property, income, or liabilities, or to produce documents concerning the judgment debtor's property, income, or liabilities; or

3. Serve interrogatories, requests for admissions, or request for production of documents, pursuant to Section 3224 et. seq. of this title, upon the judgment debtor, concerning the judgment debtor's property, income, or liabilities.

C. Failure by any person, without adequate excuse, to obey a subpoena issued and served pursuant to this section by either personal service or other service authorized by Section 2004 of this title may be deemed a contempt of the court from which the subpoena issued.

D. In addition to sums otherwise due under a final judgment, order, or decree if an order, subpoena, or discovery request is served upon the judgment debtor or any person under this section, the judgment creditor shall be entitled to costs of service and, if represented by an attorney, to an attorney's fee of Seventy-five Dollars (\$75.00); provided, attorney's fees awarded pursuant to this subsection relating to a judgment, order, or decree shall not exceed One Hundred Fifty Dollars (\$150.00) in any calendar year.

SECTION 6. AMENDATORY 12 O.S. 2001, Section 990.4, is amended to read as follows:

Section 990.4 A. Except as provided in subsection C of this section, a party may obtain a stay of the enforcement of a judgment, decree or final order:

1. While a post-trial motion is pending;
2. During the time in which an appeal may be commenced; or
3. While an appeal is pending.

Such stay may be obtained by filing with the court clerk a written undertaking and the posting of a supersedeas bond or other security as provided in this section. In the undertaking the appellant shall agree to satisfy the judgment, decree or final order, and pay the

costs and interest on appeal, if it is affirmed. The undertaking and supersedeas bond or security may be given at any time. The stay is effective when the bond and the sufficiency of the sureties are approved by the trial court or the security is deposited with the court clerk. The enforcement of the judgment, decree or order shall no longer be stayed, and the judgment, decree or order may be enforced against any surety on the bond or other security:

1. If neither a post-trial motion nor a petition in error is filed, and the time for appeal has expired;

2. If a post-trial motion is no longer pending, no petition in error has been filed, and the time for appeal has expired; or

3. If an appeal is no longer pending.

B. The amount of the bond or other security shall be as follows:

1. When the judgment, decree or final order is for payment of money:

- a. The bond shall be double the amount of the judgment, decree or final order, unless the bond is executed or guaranteed by a surety as hereinafter provided. The bond shall be for the amount of the judgment, decree or order including costs and interest on appeal where it is executed or guaranteed by an entity with suretyship powers as provided by the laws of Oklahoma.

- b. Instead of filing a supersedeas bond, the appellant may obtain a stay by depositing cash with the court clerk in the amount of the judgment or order plus an amount that the court determines will cover costs and interest on appeal. The court shall have discretion to accept United States Treasury notes or general obligation bonds of the State of Oklahoma in lieu of cash. If the court accepts such notes or bonds, it

shall make appropriate orders for their safekeeping and maintenance during the stay;

2. When the judgment, decree or final order directs execution of a conveyance or other instrument, the amount of the bond shall be determined by the court. Instead of posting a supersedeas bond or other security, the appellant may execute the conveyance or other instrument and deliver it to the clerk of the court for deposit with a public or private entity for safekeeping, as directed by the court in writing;

3. When the judgment, decree or final order directs the delivery of possession of real or personal property, the bond shall be in an amount, to be determined by the court, that will protect the interests of the parties. The court may consider the value of the use of the property, any waste that may be committed on or to the property during the pendency of the stay, the value of the property, and all costs. When the judgment, decree or final order is for the sale of mortgaged premises and the payment of a deficiency arising from the sale, the bond must also provide for the payment of the deficiency;

4. When the judgment or final order directs the assignment or delivery of documents, they may be placed in the custody of the clerk of the court in which the judgment or order was rendered, for deposit with a public or private entity for safekeeping during the pendency of the stay, as directed by the court in writing, or the bond shall be in such sum as may be prescribed by the court; or

5. In order to protect any monies payable to the Tobacco Settlement Fund as set forth in Section 50 of Title 62 of the Oklahoma Statutes, the bond in any action or litigation brought under any legal theory involving a tobacco product manufacturer that is a ~~party~~ signatory, successor of a signatory, or an affiliate of a signatory to the Master Settlement Agreement dated November 23, 1998, or a ~~party~~ signatory, successor of a signatory, or an

affiliate of a signatory to the Smokeless Tobacco Master Settlement Agreement, also dated November 23, 1998, shall be in an amount not to exceed one hundred percent (100%) of the judgment, exclusive of interest and costs, or Twenty-five Million Dollars (\$25,000,000.00), whichever is less. However, if it is proved by a preponderance of the evidence that the appellant for whom the bond has been limited pursuant to this paragraph is intentionally dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding payment of the judgment, the court shall enter such orders as are necessary to prevent dissipation or diversion, including, but not limited to, requiring that a bond be posted equal to the full amount of security required pursuant to this section. For purposes of this paragraph, "Master Settlement Agreement" and "tobacco product manufacturer" shall have the same meanings as those terms are defined in paragraphs 5 and 9 of Section 600.22 of Title 37 of the Oklahoma Statutes, and "Smokeless Tobacco Master Settlement Agreement" means the settlement agreement and related documents entered into on November 23, 1998, by this state and leading United States smokeless tobacco product manufacturers.

C. Subsections A and B of this section shall not apply in actions involving temporary or permanent injunctions, actions for divorce, separate maintenance, annulment, paternity, custody, adoption, or termination of parental rights, or in juvenile matters, post-decree matrimonial proceedings or habeas corpus proceedings. The trial or appellate court, in its discretion, may stay the enforcement of any provision in a judgment, decree or final order in any of the types of actions or proceedings listed in this subsection during the pendency of the appeal or while any post-trial motion is pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties. If a temporary or permanent injunction is denied or dissolved, the trial or appellate court, in its discretion, may restore or grant an

injunction during the pendency of the appeal and while any post-trial motions are pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties.

D. In any action not provided for in subsections A, B or C, the court may stay the enforcement of any judgment, decree or final order during the pendency of the appeal or while any post-trial motion is pending upon such terms as to bond or otherwise as it considers proper for the security of the rights of the parties.

E. The trial court shall have continuing jurisdiction during the pendency of any post-trial motion and appeal to modify any order it has entered regarding security or other conditions in connection with a stay.

F. The execution of a supersedeas bond shall not be a condition for the granting of a stay of judgment, decree or final order of any judicial tribunal against any county, municipality, or other political subdivision of the State of Oklahoma.

G. Executors, administrators and guardians who have given bond in this state, with sureties, according to law, are not required to provide a supersedeas bond if they are granted a stay of enforcement of a judgment, decree or final order.

H. After an appeal has been decided, but before the mandate has issued, a party whose trial court judgment has been affirmed, may move the appellate court to order judgment on the bond or other security in the amount of the judgment plus interest, appeals costs and allowable appeal-related attorney's fees. After mandate has issued, a party who has posted a bond or other security may move for exoneration of the bond or other security only in the trial court; and all motions concerning the bond or other security must be addressed to the trial court.

SECTION 7. AMENDATORY 12 O.S. 2001, Section 1148.14, is amended to read as follows:

Section 1148.14 An action for forcible entry and detainer brought pursuant to procedures prescribed otherwise in this title standing alone or when joined with a claim for recovery of rent, damages to the premises, or a claim arising under the Oklahoma Residential Landlord and Tenant Act, or for claims for the recovery of rent or damages to the premises as they pertain to mobile home parks or manufactured home developments whereby a landlord and tenant relationship exists in relation to the lot where a mobile home, manufactured home, or trailer that is used as a dwelling, as defined by the Oklahoma Residential Landlord and Tenant Act, rests, where the total recovery sought, exclusive of ~~attorney's~~ attorney fees and other court costs, does not exceed the jurisdictional amount for the small claims court, shall be placed on the small claims docket of the district court. The district courts may provide by court rule that any action for forcible entry and detainer may be assigned to the small claims division for determination of the right to possession, regardless of the underlying amount in controversy, at the conclusion of which, the matter shall be returned to the assigned judge for further proceedings. The court clerk shall in connection with such actions prepare the affidavit, by which the action is commenced, and the summons, and generally assist unrepresented plaintiffs to the same extent that ~~he~~ a person is now required so to do under the Small Claims Procedure Act, Section 1751 et seq. of this title.

SECTION 8. AMENDATORY 12 O.S. 2001, Section 1172, is amended to read as follows:

Section 1172. A. Garnishment proceedings, whether prejudgment or postjudgment, shall be commenced by the filing of an affidavit, on a form prescribed by the Administrative Director of the Courts, stating:

1. The name(s) of the plaintiff(s);
2. The name(s) of the defendant(s);

3. ~~The~~ In the case of prejudgment garnishments, the amount of the plaintiff's original claim against the defendant or defendants over and above all offsets;

4. In the case of postjudgment garnishments, the amount of ~~any interest, court costs and attorneys' fees awarded, stated separately~~ the interest bearing balance;

5. In the case of postjudgment garnishments, the ~~rate and the date the interest begins to accrue~~ current applicable interest rate, and the amounts of any interest, court costs and attorney fees, stated separately, which have accrued subsequent to the date of the interest bearing balance in paragraph 4 of this subsection; and

6. That the plaintiff verily believes that some person, naming him, whether within or without the county, is indebted to or has property in his possession or under his control belonging to the defendant, or either or any of the defendants, in the action or execution and that the indebtedness or property is, to the best of the knowledge and belief of the person making such affidavit, not by law exempt from seizure or sale upon execution.

B. The affidavit may be filed by the plaintiff or the plaintiff's attorney at or before the time of filing of a garnishment summons.

C. Only one garnishee may be embraced in any affidavit or garnishment summons.

SECTION 9. AMENDATORY 12 O.S. 2001, Section 1173.4, is amended to read as follows:

Section 1173.4 A. Any judgment creditor may obtain a continuing lien on earnings. For the purposes of this section, "earnings" means any form of payment to an individual including, but not limited to, salary, wages, commission, or other compensation, but does not include reimbursements for travel expenses for state employees.

B. A continuing earnings garnishment shall be commenced by filing the affidavit provided for by Section 1172 of this title.

C. The summons required by this section shall be on a form prescribed by the Administrative Office of the Courts.

D. The summons required by this section shall be served upon each of the garnishees, together with a copy of the judgment creditor's affidavit, a garnishee's answer form, notice of garnishment and request for hearing, and claim for exemptions, in the manner provided for in Section 2004 of this title and shall be returned with proof of service within ten (10) days of its date.

E. The garnishee's answer shall be on a form prescribed by the Administrative Office of the Courts.

F. Within seven (7) days after the end of each pay period, or, if the judgment debtor does not have regular pay periods, after any payment by the garnishee to the judgment debtor, the garnishee shall file an answer with the court clerk, and pay the amount withheld to the judgment creditor's attorney or to the judgment creditor, if there is no attorney, together with a copy of the answer which shall state:

1. Whether the garnishee was the employer of the defendant named in the notice, was indebted to the defendant, or was under any liability to the defendant in any manner or upon any account for earnings, specifying the beginning and ending dates of the pay period, if applicable, existing at the time of the service of the affidavit and summons, the total amounts earned in the entire pay period, and all of the facts and circumstances necessary to a complete understanding of any indebtedness or liability. When the garnishee shall be in doubt respecting the liability or indebtedness, the garnishee may set forth all of the facts and circumstances concerning the same, and submit the question to the court;

2. If the garnishee shall claim any setoff, defense, other indebtedness, liability, lien, or claim to the property, the facts and circumstances in the affidavit;

3. At the garnishee's option, any claim of exemption from execution on the part of the defendant or other objection known to the garnishee against the right of the judgment creditor to apply the indebtedness or property disclosed;

4. If the garnishee shall disclose any indebtedness or the possession of any property to which the defendant or any other person makes claim, at the garnishee's option, the names and addresses of other claimants and, so far as known, the nature of their claims; and

5. That the garnishee has mailed or hand-delivered a copy of the notice of garnishment and exemptions, application for hearing, and the manner and date of compliance.

G. The garnishment summons served on the garnishee under this section is a lien on the defendant's property due at the time of service or the effective date of the summons, to the extent the property is not exempt from garnishment. This lien attaches to subsequent nonexempt earnings until one of the following occurs:

1. The total earnings subject to the lien equals the balance of the judgment against the defendant owing to the plaintiff;

2. The employment relationship is terminated;

3. The judgment against the defendant is vacated, modified, or satisfied in full;

4. The summons is dismissed; or

5. One hundred eighty (180) days from the date of service of the affidavit and summons have elapsed; provided, an affidavit and summons shall continue in effect and shall apply to a pay period beginning before the end of the one hundred eighty-day period even if the conclusion extends beyond the end of the period.

H. 1. A garnishment lien under this section has priority over any subsequent garnishment lien or garnishment summons served on the garnishee during the period it is in effect, regardless of whether the amounts withheld by the garnishee are reduced by the court or by agreement of the parties.

2. a. When a garnishment summons is served under this section on a garnishee while a previous garnishment lien is still in effect, the garnishee shall answer the subsequent garnishment lien or garnishment summons by stating that the garnishee is presently holding defendant's property under a previous garnishment lien or garnishment summons, and by giving the date when all previous garnishment liens or garnishment summons are expected to end.

b. The subsequent summons is not effective if a summons or lien on the same cause of action is pending at the time of service unless the subsequent summons in the same cause of action is served after the one-hundred-fiftieth day of the previous garnishment lien.

I. 1. When a postjudgment wage garnishment under Section 1173 of this title or a continuing earnings garnishment under this section is issued against a defendant already subject to an income assignment for child support, the garnishee shall determine the maximum percentage of the defendant's disposable earnings according to the provisions of Section 1171.2 of this title and then deduct from that percentage the actual percentage of the defendant's disposable earnings actually withheld under the income assignment. The resulting percentage shall be the amount to be withheld by the garnishee, not to exceed twenty-five percent (25%).

2. For any involuntary legal or equitable procedures through which the earnings of any individual are required to be withheld for the payment of any debt which has statutory priority over this

section, the amount withheld pursuant to a garnishment under this section shall be reduced by the actual sums withheld pursuant to such other involuntary process.

J. A continuing earnings garnishment may be suspended or modified for a specific period of time within the effective period of the garnishment by the judgment creditor upon agreement with the judgment debtor, which agreement shall be in writing and filed by the judgment creditor with the clerk of the court in which the judgment was entered, and a copy of which shall be mailed by first-class mail, postage prepaid by the judgment creditor to the garnishee.

K. Any garnishment issued against a debtor already subject to a continuing or noncontinuing earnings garnishment shall take effect immediately upon the conclusion of the prior garnishment, and shall be effective for its full period of time or as otherwise provided in this section.

SECTION 10. AMENDATORY 12 O.S. 2001, Section 1174, is amended to read as follows:

Section 1174. A. In all cases of garnishment before judgment, the defendant in the principal action shall be given notice of the issuance in said action of any garnishee summons, the date of issuance of said summons, and the name of the garnishee.

B. In all cases of garnishment for the collection of child support, the defendant shall be given notice as required by this section.

C. In all cases of postjudgment garnishment, the court clerk shall ~~issue~~ attach notice, in a form prescribed by the Administrative Director of the Courts, with the garnishment, in the manner provided by Section 1172.2 of this title that the defendant may be entitled to claim an exemption for any assistance received pursuant to the terms of the Federal or Oklahoma Social Security Act and other exemptions that may be available to the defendant, and

that any such claim should be filed with the court clerk within five (5) days from receipt of notice in a form prescribed by the Administrative Director of the Courts, requesting a hearing as to the status of any assets which the defendant asserts are exempt. Any proceeding to claim an exemption initiated subsequent to five (5) days after receipt of notice shall be by motion unless otherwise agreed by the parties.

D. Said notification may be accomplished by:

1. Serving a copy of the garnishee summons on the defendant or on his attorney of record in the manner provided for the service of summons; or

2. Sending the notice or a copy of the garnishee summons to the defendant or his attorney of record by registered or certified mail with return receipt requested, which receipt shall be filed in the action; or

3. ~~Endorsing~~ Attaching the notice ~~on~~ to the summons issued in the principal action prior to its service; or

4. Including the notice in the publication notice when service in the principal action is by publication; or

5. Publication one time in a newspaper of general circulation in the county in which the action is filed at least five (5) days prior to the date on which the garnishee's answer is due if the defendant is a nonresident or if the defendant's whereabouts are unknown to plaintiff.

SECTION 11. AMENDATORY 12 O.S. 2001, Section 1651, is amended to read as follows:

Section 1651. District courts may, in cases of actual controversy, determine rights, status, or other legal relations, including but not limited to a determination of the construction or validity of any foreign judgment or decree, deed, contract, trust, or other instrument or agreement or of any statute, municipal ordinance, or other governmental regulation, whether or not other

relief is or could be claimed, except that no such declaration shall be made concerning liability or nonliability for damages on account of alleged tortious injuries to persons or to property either before or after judgment or for compensation alleged to be due under workers' compensation laws for injuries to persons ~~or concerning obligations alleged to arise under policies of insurance covering liability or indemnity against liability for such injuries.~~ The determination may be made either before or after there has been a breach of any legal duty or obligation, and it may be either affirmative or negative in form and effect; provided however, that a court may refuse to make such determination where the judgment, if rendered, would not terminate the controversy, or some part thereof, giving rise to the proceeding.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2003.2 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. Any person who has, on three or more prior occasions, brought a civil action or appeal against any state, county or municipal governmental agency, officer or employee, in a court of this state or any court of the United States that has been dismissed on grounds that the case was frivolous, malicious, or failed to state a claim upon which relief could be granted, may not proceed in a matter arising out of a civil case or upon an original action or appeal without prepayment of all fees required by law, unless the person is under immediate danger of serious physical injury directly related to the lawsuit sought to be filed.

B. The Administrative Director of the Courts shall maintain a registry of persons who have had cases dismissed as frivolous, malicious, or for failure to state a claim upon which relief can be granted. The Attorney General, the General Counsel of the Department of Corrections, district attorneys and general counsels of state, county or municipal agencies shall forward to the

Administrative Director of the Courts copies of all orders in cases against governmental agencies or employees in which there was a finding that the case filed by a plaintiff was dismissed as frivolous, malicious or for failure to state a claim upon which relief can be granted.

C. Any person who has brought three prior actions which were dismissed as frivolous, malicious or for failure to state a claim upon which relief can be granted, upon disposition of any subsequent actions dismissed on these grounds, shall be held in direct contempt of court and sanctioned in an amount not exceeding One Thousand Dollars (\$1,000.00) and shall be required to pay all court costs, attorney fees and other necessary litigation expenses.

SECTION 13. AMENDATORY 23 O.S. 2001, Section 9.1, as amended by Section 1, Chapter 462, O.S.L. 2002 (23 O.S. Supp. 2002, Section 9.1), is amended to read as follows:

Section 9.1 A. In an action for the breach of an obligation not arising from contract, the jury, in addition to actual damages, may, subject to the provisions and limitations in subsections B, C and D of this section, award punitive damages for the sake of example and by way of punishing the defendant based upon the following factors:

1. The seriousness of the hazard to the public arising from the defendant's misconduct;
2. The profitability of the misconduct to the defendant;
3. The duration of the misconduct and any concealment of it;
4. The degree of the defendant's awareness of the hazard and of its excessiveness;
5. The attitude and conduct of the defendant upon discovery of the misconduct or hazard;
6. In the case of a defendant which is a corporation or other entity, the number and level of employees involved in causing or concealing the misconduct; and

7. The financial condition of the defendant.

B. Category I. Where the jury finds by clear and convincing evidence that:

1. The defendant has been guilty of reckless disregard for the rights of others; or

2. An insurer has recklessly disregarded its duty to deal fairly and act in good faith with its insured; the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in an amount not to exceed the greater of:

a. One Hundred Thousand Dollars (\$100,000.00), or

b. the amount of the actual damages awarded.

Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.

C. Category II. Where the jury finds by clear and convincing evidence that:

1. The defendant has acted intentionally and with malice towards others; or

2. An insurer has intentionally and with malice breached its duty to deal fairly and act in good faith with its insured; the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in an amount not to exceed the greatest of:

a. Five Hundred Thousand Dollars (\$500,000.00),

b. twice the amount of actual damages awarded, or

c. the increased financial benefit derived by the defendant or insurer as a direct result of the conduct causing the injury to the plaintiff and other persons or entities.

The trial court shall reduce any award for punitive damages awarded pursuant to the provisions of subparagraph c of this paragraph by

the amount it finds the defendant or insurer has previously paid as a result of all punitive damage verdicts entered in any court of this state for the same conduct by the defendant or insurer. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.

D. Category III. 1. Where the jury finds by clear and convincing evidence that:

~~1.~~

a. The defendant has acted intentionally and with malice towards others~~+~~1 or

~~2.~~

b. An insurer has intentionally and with malice breached its duty to deal fairly and act in good faith with its insured; and ~~the~~

2. The court finds, on the record and out of the presence of the jury, that there is evidence beyond a reasonable doubt that the defendant or insurer acted intentionally and with malice and engaged in conduct life-threatening to humans, the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in any amount the jury deems appropriate, without regard to the limitations set forth in subsections B and C of this section. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.

E. In determining the amount, if any, of punitive damages to be awarded under either subsection B, C or D of this section, the jury shall make the award based upon the factors set forth in subsection A of this section.

F. The provisions of this section are severable, and if any part or provision thereof shall be held void, the decision of the

court shall not affect or impair any of the remaining parts or provisions thereof.

G. This section shall apply to all civil actions filed after the effective date of this act.

SECTION 14. AMENDATORY 30 O.S. 2001, Section 4-201, is amended to read as follows:

Section 4-201. A. Before the entry of an order appointing a person or organization as a guardian of the person and before the letters issue, the court may require the person or organization to be appointed to provide a bond to this state, with sufficient sureties, to be approved by the court, and in such penal sum as the court shall order, conditioned that the guardian will faithfully execute the duties of the trust according to law.

B. 1. Before the entry of an order appointing a person or organization as the guardian of a minor or as the guardian or limited guardian of the property of an incapacitated or partially incapacitated person takes effect, and before the letters issue, the court shall require the person or organization to be appointed to provide a bond, in an amount not less than the value of intangible personal property as alleged in the petition or otherwise determined by the court at the hearing on the petition, to this state, with sufficient sureties, to be approved by the court, and in such penal sum as the court shall order, conditioned that the guardian will faithfully execute the duties of the trust according to law.

2. Except as otherwise provided by paragraph 3 of this subsection, upon a finding by the court that~~+~~

~~a.~~ the anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward is less than Forty Thousand Dollars (\$40,000.00)~~+~~
and

~~b. the guardian of the ward is either a parent, spouse, brother, sister, grandparent, child, or grandchild of the ward,~~

the court may order that a bond is not necessary. For purposes of this paragraph, personal property shall not include property owned with a joint tenant.

3. The provisions of this section shall not apply to cases subject to the Uniform Veterans Guardianship Act.

C. In the event the intangible personal property of the ward, as determined by the inventory, is in a greater amount than as alleged in the petition or determined by the court at the hearing on the petition, the guardian shall file at the time the inventory is filed a bond sufficient for the full amount of the intangible personal property, which bond will be in substitution for the bond originally filed on the appointment of the guardian. The amount of the bond in the future may be adjusted up or down in amount based upon the intangible personal property shown in future annual accountings; provided, however, no bond shall be reduced except upon order of the court.

SECTION 15. AMENDATORY 30 O.S. 2001, Section 4-303, is amended to read as follows:

Section 4-303. A. Except as otherwise provided by subsection B of this section, a guardian or limited guardian of the property shall, upon the expiration of a year from the time of appointment, and at least annually thereafter, present accounts to the court for settlement and allowance as part of the guardianship report as required by Section 4-306 of this title.

B. 1. In addition, a guardian or limited guardian of the property shall:

a. present accounts whenever the court requires that such report or accounts be presented, and

- b. with the annual report of accounts, report any changes of property listed on the inventory required by Section 4-301 of this title. The report shall state the compensation requested by the guardian and for the attorneys.

2. If there has been a significant change in the physical or mental condition of the ward, or the ward's financial resources, the details thereof shall be set forth in the annual report required by subsection A of this section.

3. Except as otherwise directed by the court or required by the Uniform Veteran's Guardianship Act (72 U.S.C. 126.1, et seq.), the provisions of this subsection regarding the filing of an annual accounting and annual plan shall not apply to any guardianship of the property of a ward if the ward's financial resources or assets, other than a homestead, are worth less than Forty Thousand Dollars (\$40,000.00) if a bond has been posted, or are worth less than Ten Thousand Dollars (\$10,000.00) regardless of whether or not a bond has been posted, and if the guardian or limited guardian of the property is the spouse or a relative of the ward within the fourth degree of consanguinity.

C. In addition to the reports required by subsections A and B of this section, a guardian or limited guardian shall submit a report:

1. If the ward is an incapacitated or partially incapacitated person, when there is a significant change in the capacity of the ward to meet the essential requirements for the physical health or safety of the ward or to manage the financial resources of the ward;

2. If the ward is a minor, any significant change in the condition of the minor or in the condition of the estate of the minor;

3. When the guardian or limited guardian resigns or is removed;
and

4. When the guardianship is terminated.

D. 1. Unless waived at the discretion of the court, a guardian or limited guardian of the person of an incapacitated or partially incapacitated person shall file a report on the guardianship of the person pursuant to Section 4-305 of this title.

2. ~~Unless waived at the discretion of the court, or not required by Section 21.5 of Title 10 of the Oklahoma Statutes, a~~ A guardian of the person of a minor ward shall not be required to file ~~such~~ annual reports of the guardianship of the person of the ward ~~as required unless ordered by the court in such form as the court may require.~~

3. A guardian or limited guardian of the property of a ward shall file a report on the guardianship of the property pursuant to Section 4-306 of this title.

E. The court shall not waive the filing of any report for a period in excess of five (5) years.

F. If the same person or organization is required to file reports as to both the person and the property of a ward, the reports may be consolidated.

G. An accounting information submitted by a guardian or limited guardian of the property of a ward shall be verified and shall be rendered in the same manner as required by Title 58 of the Oklahoma Statutes with respect to an information of an estate of a decedent. Such information shall also set forth any charges to the property of the ward which have accrued since the previous accounting or, in the case of an initial accounting, since the filing of an inventory of the property of the ward placed under the control of the guardian or limited guardian.

H. In addition to other specified information any order of the court approving an annual guardianship plan and report shall include the date certain by which the guardian shall file the next annual report.

SECTION 16. AMENDATORY 31 O.S. 2001, Section 1.1, is amended to read as follows:

Section 1.1 A. Following the issuance of an execution, attachment, or garnishment, except process to collect a judgment or order for child support or maintenance of children or in cases in which the court has limited or reduced the application of this section pursuant to Section 142.18 of Title 21 of the Oklahoma Statutes, the debtor may file with the court an application requesting a hearing to exempt from such process by reason of undue hardship that portion of any earnings from personal services necessary for the maintenance of a family or other dependents supported wholly or partially by the labor of the debtor. A debtor with no family or other dependents may not claim an exemption under this section. A hearing on the application shall be set and conducted in the manner provided by Section 1172.2 of Title 12 of the Oklahoma Statutes and subsection D of Section 1174 of Title 12 of the Oklahoma Statutes.

B. In determining the existence of an undue hardship, the court should consider the income and expenses of the family and other dependents, and the standard of living created by the income and expenses. The court should also consider the standard of living in relationship to the minimal subsistence needs of the debtor's family and other dependents, with comparison to the minimal subsistence standards in the community, in regard to basic shelter, food, clothing, personal necessities and transportation. The court should then determine if the lack of the funds sought to be exempt would be an undue hardship by creating less than a minimal level of subsistence. If deprivation of these earnings would create an undue hardship on the debtor and the family or other dependents the debtor supports, the court may:

1. Order all or a portion of the personal ~~wages~~ earnings exempt; or

2. In the case of a continuing ~~wage~~ earnings garnishment pursuant to Section 1173.4 of Title 12 of the Oklahoma Statutes, order all or a portion of the personal earnings withheld within thirty (30) days preceding the filing of the claim for exemption, exempt, modify or stay the garnishment for a period of time not to exceed the remainder of its term.

SECTION 17. AMENDATORY 42 O.S. 2001, Section 43, is amended to read as follows:

Section 43. A. Every hospital in the State of Oklahoma, which shall furnish emergency medical or other service to any patient injured by reason of an accident not covered by the Workers' Compensation Act, shall, if such injured party shall assert or maintain a claim against another for damages on account of such injuries, have a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient, or by his heirs, personal representatives or next of kin in the case of his death, whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages: Provided, however, that this lien shall be inferior to any lien or claim of any attorney or attorneys for handling the claim on behalf of such patient, his heirs or personal representatives; provided further, that the lien herein set forth shall not be applied or considered valid against any claim for amounts ~~due under the Workers' Compensation Act in this state~~ pursuant to the provisions of Title 85 of the Oklahoma Statutes.

B. In addition to the lien provided for in subsection A of this section, every hospital which performs medical services for any person injured as a result of the negligence or act or another shall have, if the injured person asserts or maintains a claim against an

insurer, a lien for the amount due for such medical services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person, the person's attorney or legal representative as compensation for such injuries or death:

1. A written notice is sent setting forth an itemized or summary statement of the amount claimed identifying, to the extent known by the claimant, the insurance company and policy or policies against which the lien is asserted, if any, and containing the name and address of claimant, and to the extent known by the claimant, the injured person and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialmen's lien docket in the office of the county clerk of the county where the claimant is located; and

2. The claimant sends, by registered or certified mail, postage prepaid, a copy of the notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The claimant shall also send a copy of the notice to the attorney for the injured person, if the name and address of the attorney is known to the claimant.

D. A lien created pursuant to this section may be enforced in a civil action in the district court of the county where the lien was filed. The action shall be brought within one (1) year after the claimant becomes aware of the final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading, and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extend applicable.

SECTION 18. AMENDATORY 42 O.S. 2001, Section 46, is amended to read as follows:

Section 46. A. Every physician or medical corporation employing a physician who performs medical services for any person injured as a result of the negligence or act of another, shall, if the injured person asserts or maintains a claim against such other person for damages on account of such injuries, have a lien for the amount due for such medical services upon that part going or belonging to the injured person of any recovery or sum had or collected or to be collected by the injured person, or by his heirs, personal representative, or next of kin in the event of his death, whether by judgment, settlement, or compromise. Such lien shall be inferior to any lien or claim of any attorney handling the claim for or on behalf of the injured person. The lien shall not be applied or considered valid against any claim for amounts due pursuant to the provisions of Title 85 of the Oklahoma Statutes.

B. In addition to the lien provided for in subsection A of this section, every physician or medical corporation employing a physician who performs medical services for any person injured as a result of the negligence or act of another, shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for such medical services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person, his attorney, or legal representative as compensation for such injuries or death:

1. A written notice is sent setting forth an itemized or summary statement of the amount claimed, identifying, to the extent known by the claimant, the insurance company and policy or policies against which the lien is asserted, if any, and containing the name and address of the ~~physician claiming the lien~~ claimant and, to the extent known by claimant, the injured person, and the person, firm, or corporation against whom the claim is made, is filed on the

mechanic's and materialman's lien docket in the office of the county clerk of the county where the principal office of the ~~physician~~ claimant is located; and

2. The ~~physician~~ claimant sends, by registered or certified mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The ~~physician~~ claimant shall also send a copy of the notice to the attorney for the injured person, if the name and address of such attorney is known to the ~~physician~~ claimant.

D. The liens provided for in this section may be enforced by civil action in the district court of the county where the lien was filed. Such an action shall be brought within one (1) year after the ~~physician~~ claimant becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading, and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

SECTION 19. AMENDATORY 42 O.S. 2001, Section 49, is amended to read as follows:

Section 49. A. Every person, company, governmental entity, or trust authority operating an ambulance service within this state who or which performs ambulance services for any person injured as a result of the negligent or intentional act of another shall, if the injured person asserts or maintains a claim against another person for damages on account of the injuries, have a lien for the amount due for the ambulance services upon any recovery or sum had or collected or to be collected by the injured person or the estate of the injured person in the event of the injured person's death, whether by judgment, settlement, or compromise. The lien shall be inferior to any lien or claim of any attorney representing the injured person. The lien shall not be applied or considered valid

against any claim for amounts due pursuant to the provisions of Title 85 of the Oklahoma Statutes.

B. In addition to the lien provided for in subsection A of this section, every person, company, governmental entity, or trust authority operating an ambulance service within this state who or which performs ambulance services for any person injured as a result of the negligent or intentional act of another shall have, if the injured person asserts or maintains a claim against an insurer, a lien for the amount due for the ambulance services upon any monies payable by the insurer to the injured person.

C. No lien which is provided for in this section shall be effective unless, before the payment of any monies to the injured person or the injured person's attorney or legal representative, as compensation for the injuries or death:

1. A written notice is sent setting forth an itemized or summary statement of the amount claimed, identifying, to the extent known by the claimant, the insurance company and policy or policies against which the lien is asserted, if any, and containing the name and address of the ~~person, company, governmental entity, or trust authority claiming the lien~~ claimant and, to the extent known by the claimant, the injured person, and the person, firm, or corporation against whom the claim is made, is filed on the mechanic's and materialman's lien docket in the office of the county clerk of the county where the principal office of the claimant is located; and

2. The claimant sends, by registered or certified mail, postage prepaid, a copy of the notice with a statement of the date of filing thereof to the person, firm, or corporation against whom the claim is made and to the injured person. The claimant shall also send a copy of the notice to the attorney for the injured person, if the name and address of the attorney is known to the claimant.

D. A lien created pursuant to this section may be enforced in a civil action in the district court of the county where the lien was

filed. ~~An~~ Such an action shall be brought within one (1) year after the claimant becomes aware of a final judgment, settlement, or compromise of the claim asserted or maintained by or on behalf of the injured person. The practice, pleading, and proceedings in the action shall conform to the rules prescribed by the Oklahoma Pleading Code to the extent applicable.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50 of Title 42, unless there is created a duplication in numbering, reads as follows:

For liens and lien procedures under Sections 43, 46 and 49 of this title:

1. The statute of limitations for a civil action against the injured party for the amount due under the lien shall be extended by the period of time commencing the date the lien is filed and concluding on the date the claimant becomes aware of final judgment, settlement or compromise of the claim asserted or maintained by or on behalf of the injured person, the person's heirs or personal representatives.

2. The amount due the claimant secured by the lien shall include the costs of filing and mailing of the lien and lien notice as defined and limited in this section. The costs of filing shall be the amount charged by the county clerk. The costs for mailing by certified or registered mail shall be the amount charged by clerks of the district court for equivalent mailing. The inclusion of costs of filing and mailing shall be limited to once per injury, and shall not be included for amended liens or additional liens for subsequent services to the injured party.

SECTION 21. AMENDATORY 76 O.S. 2001, Section 5A, is amended to read as follows:

Section 5A. A. 1. A Any person who is qualified pursuant to this subsection and who, in good faith and without expectation of compensation, renders emergency care or treatment outside of a

medical facility by the use of an automated external defibrillator shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct in the use of such device.

2. A person is qualified pursuant to this subsection upon successful completion of appropriate training in the use of automated external defibrillators and cardiopulmonary resuscitation. Appropriate training shall consist of a course ~~of at least four (4) hours of training~~ in the use of automated external defibrillators and cardiopulmonary resuscitation. ~~Providers and instructors of these~~ Such courses shall be approved pursuant to rules ~~adopted~~ promulgated by the State Board of Health and shall be subject to approval or disapproval in the discretion of the Commissioner of Health. These rules may include appropriate periodic retraining at intervals established by the Commissioner by rule.

3. Course directors and trainers who have completed the training required by the State Department of Health for teaching courses in the use of automated external defibrillators and cardiopulmonary resuscitation shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct in the teaching of such training courses.

B. ~~1. A qualified person or~~ prescribing physician who, in good faith and without expectation of compensation, writes a prescription for the use of an automated external defibrillator to render emergency care or treatment shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct in the prescribing of the device.

C. An entity which owns, leases, possesses, or otherwise controls an automated external defibrillator shall be immune from

civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct.

~~2. A person or entity is qualified pursuant to this subsection,~~
if the ~~person or~~ entity:

~~a.~~

1. If not available to the public, requires ~~users of its own~~
authorized agents who may use the automated external defibrillator
to be qualified pursuant to subsection A of this section, ~~and; or~~

~~b. maintains~~

2. If made available to the public, maintains and stores its
automated external defibrillator with an usage detection device
which automatically signals first responders or designated qualified
employees of the entity; and

3. Maintains and tests its automated external defibrillator
according to the manufacturer's instructions.

~~C.~~ D. An entity which owns, leases, possesses or otherwise
controls an automated external defibrillator shall communicate to
the proper first responder the locations and placements of the
automated external defibrillator owned, leased, possessed or
otherwise controlled by the entity.

E. For purposes of this section:

1. "Automated external defibrillator" means a medical device
consisting of a heart monitor and defibrillator which:

- a. has received approval of its premarket notification,
filed pursuant to 21 U.S.C., Section 360(k), from the
United States Food and Drug Administration,
- b. is capable of recognizing the presence or absence of
ventricular fibrillation or rapid ventricular
tachycardia, and is capable of determining, without
intervention by an operator, whether defibrillation
should be performed, and

c. upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart; ~~and~~

2. "Entity" means public and private organizations including, but not limited to, the State of Oklahoma and its agencies and political subdivisions, a proprietorship, partnership, limited liability company, corporation, or other legal entity, whether or not operated for profit;

3. "First responder" means an individual certified by the State Department of Health to perform emergency medical services in accordance with the Oklahoma Emergency Response Systems Development Act and in accordance with the rules and standards promulgated by the State Board of Health; and

4. "Prescribing physician" means a person licensed to practice medicine in the state pursuant to Chapters 11 and 14 of Title 59 of the Oklahoma Statutes.

SECTION 22. REPEALER 42 O.S. 2001, Section 44, is hereby repealed.

SECTION 23. This act shall become effective November 1, 2003.

49-1-6965 MD 05/15/03