

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL 1311

By: Howard of the Senate

and

Kannady of the House

COMMITTEE SUBSTITUTE

An Act relating to The Governmental Tort Claims Act;  
amending 51 O.S. 2021, Sections 152, as last amended  
by Section 1, Chapter 241, O.S.L. 2021, and 156,  
which relate to definitions and presentation of  
claim; modifying definition; clarifying language;  
requiring certain information or documentation to  
support claim of certain loss; providing for  
invalidation of notice upon refusal to furnish  
certain information or documentation; and providing  
an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2021, Section 152, as last  
amended by Section 1, Chapter 241, O.S.L. 2021, is amended to read  
as follows:

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

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

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

4        3. "Charitable health care provider" means a person who is  
5 licensed, certified, or otherwise authorized by the laws of this  
6 state to administer health care in the ordinary course of business  
7 or the practice of a profession and who provides care to a medically  
8 indigent person, as defined in paragraph 9 of this section, with no  
9 expectation of or acceptance of compensation of any kind;

10       4. "Claim" means any written demand presented by a claimant or  
11 the claimant's authorized representative in accordance with The  
12 Governmental Tort Claims Act to recover money from the state or  
13 political subdivision as compensation for an act or omission of a  
14 political subdivision or the state or an employee;

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

- 19           a. any person holding an interest in real or personal  
20           property which suffers a loss, provided that the claim  
21           of the person shall be aggregated with claims of all  
22           other persons holding an interest in the property and  
23           the claims of all other persons which are derivative  
24

- 1 of the loss, and that multiple claimants shall be  
2 considered a single claimant,
- 3 b. the individual actually involved in the accident or  
4 occurrence who suffers a loss, provided that the  
5 individual shall aggregate in the claim the losses of  
6 all other persons which are derivative of the loss, or  
7 c. in the case of death, an administrator, special  
8 administrator or a personal representative who shall  
9 aggregate in the claim all losses of all persons which  
10 are derivative of the death;

11 6. "Community health care provider" means:

- 12 a. a health care provider who volunteers services at a  
13 community health center that has been deemed by the  
14 U.S. Department of Health and Human Services as a  
15 federally qualified health center as defined by 42  
16 U.S.C., Section 1396d(1)(2)(B),
- 17 b. a health provider who provides services to an  
18 organization that has been deemed a federally  
19 qualified look-alike community health center, and
- 20 c. a health care provider who provides services to a  
21 community health center that has made application to  
22 the U.S. Department of Health and Human Services for  
23 approval and deeming as a federally qualified look-  
24 alike community health center in compliance with

1 federal application guidance, and has received  
2 comments from the U.S. Department of Health and Human  
3 Services as to the status of such application with the  
4 established intent of resubmitting a modified  
5 application, or, if denied, a new application, no  
6 later than six (6) months from the date of the  
7 official notification from the U.S. Department of  
8 Health and Human Services requiring resubmission of a  
9 new application;

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

14 a. Employee also includes:

- 15 (1) all elected or appointed officers, members of  
16 governing bodies and other persons designated to  
17 act for an agency or political subdivision, but  
18 the term does not mean a person or other legal  
19 entity while acting in the capacity of an  
20 independent contractor or an employee of an  
21 independent contractor,  
22 (2) from September 1, 1991, through June 30, 1996,  
23 licensed physicians, licensed osteopathic  
24 physicians and certified nurse-midwives providing

1 prenatal, delivery or infant care services to  
2 State Department of Health clients pursuant to a  
3 contract entered into with the State Department  
4 of Health in accordance with paragraph 3 of  
5 subsection B of Section 1-106 of Title 63 of the  
6 Oklahoma Statutes but only insofar as services  
7 authorized by and in conformity with the terms of  
8 the contract and the requirements of Section 1-  
9 233 of Title 63 of the Oklahoma Statutes, and  
10 (3) any volunteer, full-time or part-time firefighter  
11 when performing duties for a fire department  
12 provided for in subparagraph j of paragraph 11 of  
13 this section.

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

- 18 (1) physicians acting in an administrative capacity,  
19 (2) resident physicians and resident interns  
20 participating in a graduate medical education  
21 program of the University of Oklahoma Health  
22 Sciences Center, the College of Osteopathic  
23 Medicine of Oklahoma State University, or the  
24

1 Department of Mental Health and Substance Abuse  
2 Services,

3 (3) faculty members and staff of the University of  
4 Oklahoma Health Sciences Center and the College  
5 of Osteopathic Medicine of Oklahoma State  
6 University, while engaged in teaching duties,

7 (4) physicians who practice medicine or act in an  
8 administrative capacity as an employee of an  
9 agency of the State of Oklahoma,

10 (5) physicians who provide medical care to inmates  
11 pursuant to a contract with the Department of  
12 Corrections,

13 (6) any person who is licensed to practice medicine  
14 pursuant to Title 59 of the Oklahoma Statutes,  
15 who is under an administrative professional  
16 services contract with the Oklahoma Health Care  
17 Authority under the auspices of the Oklahoma  
18 Health Care Authority Chief Medical Officer, and  
19 who is limited to performing administrative  
20 duties such as professional guidance for medical  
21 reviews, reimbursement rates, service  
22 utilization, health care delivery and benefit  
23 design for the Oklahoma Health Care Authority,  
24

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

1 College of Osteopathic Medicine of Oklahoma State  
2 University not acting in an administrative capacity or  
3 engaged in teaching duties are not employees or agents  
4 of the state.

5 c. For the purposes of The Governmental Tort Claims Act,  
6 employee shall include independent contractors and  
7 employees of independent contractors while actively  
8 engaged in the transport of individuals in need of  
9 initial assessment, emergency detention, or protective  
10 custody as authorized by Section 1-110 of Title 43A of  
11 the Oklahoma Statutes.

12 d. Except as provided in subparagraph b of this  
13 paragraph, in no event shall the state be held liable  
14 for the tortious conduct of any physician, resident  
15 physician or intern while practicing medicine or  
16 providing medical treatment to patients;

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

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



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

3        11. "Political subdivision" means:

4            a. a municipality,

5            b. a school district, including, but not limited to, a  
6 technology center school district established pursuant  
7 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of  
8 the Oklahoma Statutes,

9            c. a county,

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

14            (1) a municipal hospital created pursuant to Sections  
15 30-101 through 30-109 of Title 11 of the Oklahoma  
16 Statutes, a county hospital created pursuant to  
17 Sections 781 through 796 of Title 19 of the  
18 Oklahoma Statutes, or is created pursuant to a  
19 joint agreement between such governing  
20 authorities, that is operated for the public  
21 benefit by a public trust created pursuant to  
22 Sections 176 through 180.4 of Title 60 of the  
23 Oklahoma Statutes and managed by a governing  
24 board appointed or elected by the municipality,

1 county, or both, who exercises control of the  
2 hospital, subject to the approval of the  
3 governing body of the municipality, county, or  
4 both,

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

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

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

22 f. for the purposes of The Governmental Tort Claims Act  
23 only, corporations organized not for profit pursuant  
24 to the provisions of the Oklahoma General Corporation

1 Act for the primary purpose of developing and  
2 providing rural water supply and sewage disposal  
3 facilities to serve rural residents,  
4 g. for the purposes of The Governmental Tort Claims Act  
5 only, districts formed pursuant to the Rural Water,  
6 Sewer, Gas and Solid Waste Management Districts Act,  
7 h. for the purposes of The Governmental Tort Claims Act  
8 only, master conservancy districts formed pursuant to  
9 the Conservancy Act of Oklahoma,  
10 i. for the purposes of The Governmental Tort Claims Act  
11 only, a fire protection district created pursuant to  
12 the provisions of Section 901.1 et seq. of Title 19 of  
13 the Oklahoma Statutes,  
14 j. for the purposes of The Governmental Tort Claims Act  
15 only, a benevolent or charitable corporate volunteer  
16 or full-time fire department for an unincorporated  
17 area created pursuant to the provisions of Section 592  
18 et seq. of Title 18 of the Oklahoma Statutes,  
19 k. for purposes of The Governmental Tort Claims Act only,  
20 an Emergency Services Provider rendering services  
21 within the boundaries of a Supplemental Emergency  
22 Services District pursuant to an existing contract  
23 between the Emergency Services Provider and the State  
24 Department of Health. Provided, however, that the

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

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

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

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

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

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

- 1           q.    for purposes of The Governmental Tort Claims Act only,  
2                any child-placing agency licensed by this state to  
3                place children in foster family homes,
- 4           r.    a circuit engineering district created pursuant to  
5                Section 687.1 of Title 69 of the Oklahoma Statutes,  
6                and
- 7           s.    for purposes of The Governmental Tort Claims Act only,  
8                a regional transportation authority created pursuant  
9                to Section 1370.7 of Title 68 of the Oklahoma Statutes  
10              including its contract operator and any railroad  
11              operating in interstate commerce that sells a property  
12              interest or provides services to a regional  
13              transportation authority or allows the authority to  
14              use the property or tracks of the railroad for the  
15              provision of public passenger rail service to the  
16              extent claims against the contract operator or  
17              railroad arise out of or are related to or in  
18              connection with such property interest, services or  
19              operation of the public passenger rail service.  
20              Provided, the acquisition of commercial liability  
21              insurance to cover the activities of the regional  
22              transportation authority, contract operator or  
23              railroad shall not operate as a waiver of any  
24

1 liabilities, immunities or defenses provided pursuant  
2 to the provisions of the Governmental Tort Claims Act,  
3 and all their institutions, instrumentalities or agencies;

4 12. "Scope of employment" means performance by an employee  
5 acting in good faith within the duties of the employee's office or  
6 employment or of tasks lawfully assigned by a competent authority  
7 including the operation or use of an agency vehicle or equipment  
8 with actual or implied consent of the supervisor of the employee,  
9 but shall not include corruption or fraud;

10 13. "State" means the State of Oklahoma or any office,  
11 department, agency, authority, commission, board, institution,  
12 hospital, college, university, public trust created pursuant to  
13 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is  
14 the beneficiary, or other instrumentality thereof; and

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

22 SECTION 2. AMENDATORY 51 O.S. 2021, Section 156, is  
23 amended to read as follows:  
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1       Section 156. A. Any person having a claim against the state or  
2 a political subdivision within the scope of Section 151 et seq. of  
3 this title shall present a claim to the state or political  
4 subdivision for any appropriate relief including the award of money  
5 damages.

6       B. Except as provided in subsection H of this section, and not  
7 withstanding any other provision of law, claims against the state or  
8 a political subdivision are to be presented within one (1) year of  
9 the date the loss occurs. A claim against the state or a political  
10 subdivision shall be forever barred unless notice thereof is  
11 presented within one (1) year after the loss occurs.

12       C. A claim against the state shall be in writing and filed with  
13 the Office of the Risk Management Administrator of the Office of  
14 Management and Enterprise Services who shall immediately notify the  
15 Attorney General and the agency concerned and conduct a diligent  
16 investigation of the validity of the claim within the time specified  
17 for approval or denial of claims by Section 157 of this title. A  
18 claim may be filed by certified mail with return receipt requested.  
19 A claim which is mailed shall be considered filed upon receipt by  
20 the Office of the Risk Management Administrator.

21       D. A claim against a political subdivision shall be in writing  
22 and filed with the office of the clerk of the governing body.

23       E. The written notice of claim to the state or a political  
24 subdivision shall state the date, time, place and circumstances of

1 the claim, the identity of the state agency or agencies involved,  
2 the amount of compensation or other relief demanded, the name,  
3 address and telephone number of the claimant, the name, address and  
4 telephone number of any agent authorized to settle the claim, and  
5 any and all other information required to meet the reporting  
6 requirements of the Medicare Secondary Payer Mandatory Reporting  
7 Provisions in Section 111 of the Medicare, Medicaid and SCHIP  
8 Extension Act of 2007 (MMSEA) through the Centers for Medicare &  
9 Medicaid Services (CMS). Failure to state either the date, time,  
10 place and circumstances and amount of compensation demanded, or any  
11 information requested to comply with the reporting claims to CMS  
12 under MMSEA shall not invalidate the notice unless the claimant  
13 declines or refuses to furnish such information after demand by the  
14 state or political subdivision. The time for giving written notice  
15 of claim pursuant to the provisions of this section does not include  
16 the time during which the person injured is unable due to  
17 incapacitation from the injury to give such notice, not exceeding  
18 ninety (90) days of incapacity.

19 F. If the written notice of claim demands relief for personal  
20 injuries, the claimant shall provide the name and address of all  
21 health care providers who treated the claimant since the date and  
22 time of the circumstances claimant set forth in the notice of claim  
23 required by subsection E of this section and the date of the notice  
24 required by subsection E of this section. For each health care



1 provider required to be identified, the claimant shall provide a  
2 HIPPA compliant authorization for release of health information.  
3 Failure to provide the name and address of all health care providers  
4 and the HIPPA compliant authorization required by this subsection  
5 shall not invalidate the notice required by subsection E of this  
6 section unless the claimant declines or refuses to furnish such  
7 information after demanded by the state or political subdivision.

8 G. If the written notice of claim demands relief for loss of  
9 earnings, the claimant shall provide the documentation of the loss  
10 of earnings since the date and time of the circumstances claimant  
11 set forth in the notice of claim required by subsection E of this  
12 section and the date of the notice required by subsection E of this  
13 section. Failure to provide the documentation required by this  
14 subsection shall not invalidate the notice required by subsection E  
15 of this section unless claimant declines or refuses to furnish such  
16 information after demanded by the state or political subdivision.

17 H. If the written notice of claim demands relief for losses of  
18 real or personal property, the claimant shall provide the amount of  
19 the property loss claimed, the method used to calculate the amount  
20 of loss, documentation relied upon in determining the amount of  
21 loss, and proof of the claimant's ownership of property. Failure to  
22 provide the documentation required by this subsection shall not  
23 invalidate the notice required by subsection E of this section  
24

1 unless claimant declines or refuses to furnish such information  
2 after demanded by the state or political subdivision.

3 I. When the claim is one for death by wrongful act or omission,  
4 notice may be presented by the personal representative within one  
5 (1) year after the death occurs. If the person for whose death the  
6 claim is made has presented notice that would have been sufficient  
7 had he lived, an action for wrongful death may be brought without  
8 any additional notice.

9 ~~G.~~ J. Claims and suits against resident physicians or interns  
10 shall be made in accordance with the provisions of Titles 12 and 76  
11 of the Oklahoma Statutes.

12 ~~H.~~ K. For purposes of claims based on wrongful felony  
13 conviction resulting in imprisonment provided for in Section 154 of  
14 this title, loss occurs on the date that the claimant receives a  
15 pardon based on actual innocence from the Governor or the date that  
16 the claimant receives judicial relief absolving the claimant of  
17 guilt based on actual innocence; provided, for persons whose basis  
18 for a claim occurred prior to the effective date of this act, the  
19 claim must be submitted within one (1) year after the effective date  
20 of this act.

21 SECTION 3. This act shall become effective November 1, 2022.  
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