

1 ENGROSSED SENATE  
2 BILL NO. 458

By: Daniels of the Senate

3 and

4 Kannady of the House

5  
6 [ Governmental Tort Claims Act - certain exemption  
7 from liability - exception - effective date ]  
8

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

10 SECTION 1. AMENDATORY 51 O.S. 2011, Section 155, as last  
11 amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2020,  
12 Section 155), is amended to read as follows:

13 Section 155. The state or a political subdivision shall not be  
14 liable if a loss or claim results from:

15 1. Legislative functions;

16 2. Judicial, quasi-judicial, or prosecutorial functions, other  
17 than claims for wrongful criminal felony conviction resulting in  
18 imprisonment provided for in Section 154 of this title;

19 3. Execution or enforcement of the lawful orders of any court;

20 4. Adoption or enforcement of or failure to adopt or enforce a  
21 law, whether valid or invalid, including, but not limited to, any  
22 statute, charter provision, ordinance, resolution, rule, regulation  
23 or written policy;  
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- 1        5. Performance of or the failure to exercise or perform any act  
2 or service which is in the discretion of the state or political  
3 subdivision or its employees;
- 4        6. Civil disobedience, riot, insurrection or rebellion or the  
5 failure to provide, or the method of providing, police, law  
6 enforcement or fire protection;
- 7        7. Any claim based on the theory of attractive nuisance;
- 8        8. Snow or ice conditions or temporary or natural conditions on  
9 any public way or other public place due to weather conditions,  
10 unless the condition is affirmatively caused by the negligent act of  
11 the state or a political subdivision;
- 12        9. Entry upon any property where that entry is expressly or  
13 implied authorized by law;
- 14        10. Natural conditions of property of the state or political  
15 subdivision;
- 16        11. Assessment or collection of taxes or special assessments,  
17 license or registration fees, or other fees or charges imposed by  
18 law;
- 19        12. Licensing powers or functions including, but not limited  
20 to, the issuance, denial, suspension or revocation of or failure or  
21 refusal to issue, deny, suspend or revoke any permit, license,  
22 certificate, approval, order or similar authority;
- 23        13. Inspection powers or functions, including failure to make  
24 an inspection, review or approval, or making an inadequate or

1 negligent inspection, review or approval of any property, real or  
2 personal, to determine whether the property complies with or  
3 violates any law or contains a hazard to health or safety, or fails  
4 to conform to a recognized standard;

5 14. Any loss to any person covered by any workers' compensation  
6 act or any employer's liability act;

7 15. Absence, condition, location or malfunction of any traffic  
8 or road sign, signal or warning device unless the absence,  
9 condition, location or malfunction is not corrected by the state or  
10 political subdivision responsible within a reasonable time after  
11 actual or constructive notice or the removal or destruction of such  
12 signs, signals or warning devices by third parties, action of  
13 weather elements or as a result of traffic collision except on  
14 failure of the state or political subdivision to correct the same  
15 within a reasonable time after actual or constructive notice.

16 Nothing herein shall give rise to liability arising from the failure  
17 of the state or any political subdivision to initially place any of  
18 the above signs, signals or warning devices. The signs, signals and  
19 warning devices referred to herein are those used in connection with  
20 hazards normally connected with the use of roadways or public ways  
21 and do not apply to the duty to warn of special defects such as  
22 excavations or roadway obstructions;

23 16. Any claim which is limited or barred by any other law;

24 17. Misrepresentation, if unintentional;

1        18. An act or omission of an independent contractor or  
2 consultant or his or her employees, agents, subcontractors or  
3 suppliers or of a person other than an employee of the state or  
4 political subdivision at the time the act or omission occurred;

5        19. Theft by a third person of money in the custody of an  
6 employee unless the loss was sustained because of the negligence or  
7 wrongful act or omission of the employee;

8        20. Participation in or practice for any interscholastic or  
9 other athletic contest sponsored or conducted by or on the property  
10 of the state or a political subdivision;

11       21. Participation in any activity approved by a local board of  
12 education and held within a building or on the grounds of the school  
13 district served by that local board of education before or after  
14 normal school hours or on weekends;

15       22. Use of indoor or outdoor school property and facilities  
16 made available for public recreation before or after normal school  
17 hours or on weekends or school vacations, except those claims  
18 resulting from willful and wanton acts of negligence. For purposes  
19 of this paragraph:

20           a. "public" includes, but is not limited to, students  
21           during nonschool hours and school staff when not  
22           working as employees of the school, and

23           b. "recreation" means any indoor or outdoor physical  
24           activity, either organized or unorganized, undertaken

1           for exercise, relaxation, diversion, sport or  
2           pleasure, and that is not otherwise covered by  
3           paragraph 20 or 21 of this section;

4       23. Any court-ordered, Department of Corrections or county  
5 approved work release program; provided, however, this provision  
6 shall not apply to claims from individuals not in the custody of the  
7 Department of Corrections based on accidents involving motor  
8 vehicles owned or operated by the Department of Corrections;

9       24. The activities of the National Guard, the militia or other  
10 military organization administered by the Military Department of the  
11 state when on duty pursuant to the lawful orders of competent  
12 authority:

- 13           a. in an effort to quell a riot,
- 14           b. in response to a natural disaster or military attack,
- 15           or
- 16           c. if participating in a military mentor program ordered
- 17           by the court;

18       25. Provision, equipping, operation or maintenance of any  
19 prison, jail or correctional facility, or injuries resulting from  
20 the parole or escape of a prisoner or injuries by a prisoner to any  
21 other prisoner; provided, however, this provision shall not apply to  
22 claims from individuals not in the custody of the Department of  
23 Corrections based on accidents involving motor vehicles owned or  
24 operated by the Department of Corrections;

1        26. Provision, equipping, operation or maintenance of any  
2 juvenile detention facility, or injuries resulting from the escape  
3 of a juvenile detainee, or injuries by a juvenile detainee to any  
4 other juvenile detainee;

5        27. Any claim or action based on the theory of manufacturer's  
6 products liability or breach of warranty, either expressed or  
7 implied;

8        28. Any claim or action based on the theory of indemnification  
9 or subrogation;

10       29. Any claim based upon an act or omission of an employee in  
11 the placement of children;

12       30. Acts or omissions done in conformance with then current  
13 recognized standards;

14       31. Maintenance of the state highway system or any portion  
15 thereof unless the claimant presents evidence which establishes  
16 either that the state failed to warn of the unsafe condition or that  
17 the loss would not have occurred but for a negligent affirmative act  
18 of the state;

19       32. Any confirmation of the existence or nonexistence of any  
20 effective financing statement on file in the office of the Secretary  
21 of State made in good faith by an employee of the office of the  
22 Secretary of State as required by the provisions of Section 1-9-  
23 320.6 of Title 12A of the Oklahoma Statutes;

24       33. Any court-ordered community sentence;

1        34. Remedial action and any subsequent related maintenance of  
2 property pursuant to and in compliance with an authorized  
3 environmental remediation program, order, or requirement of a  
4 federal or state environmental agency;

5        35. The use of necessary and reasonable force by a school  
6 district employee to control and discipline a student during the  
7 time the student is in attendance or in transit to and from the  
8 school, or any other function authorized by the school district;

9        36. Actions taken in good faith by a school district employee  
10 for the out-of-school suspension of a student pursuant to applicable  
11 Oklahoma Statutes; ~~or~~

12        37. Use of a public facility opened to the general public  
13 during an emergency; or

14        38. A sanitary sewer overflow occurring on private property;  
15 provided, however, such exception shall not apply to claims for loss  
16 of property.

17        SECTION 2. This act shall become effective November 1, 2021.  
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1 Passed the Senate the 9th day of March, 2021.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2021.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives