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March 3, 2022

SENATE BILL NO. 1773

By: Howard of the Senate

and

Kannady of the House

[ Governmental Tort Claims Act - limits of liability  
- effective date ]

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

SECTION 1. AMENDATORY 51 O.S. 2021, Section 154, is amended to read as follows:

Section 154. A. The total liability of the state and its political subdivisions on claims within the scope of The Governmental Tort Claims Act, arising out of an accident or occurrence happening after October 1, 1985, Section 151 et seq. of this title, shall not exceed:

1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Forty Thousand Dollars (\$40,000.00) for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence;

2. Except as otherwise provided in this paragraph, ~~One Hundred Twenty-five Thousand Dollars (\$125,000.00)~~ Two Hundred Thousand

1 Dollars (\$200,000.00) to any claimant for a claim for any other loss  
2 arising out of a single act, accident, or occurrence. The limit of  
3 liability for the state or any city or county with a population of  
4 three hundred thousand (300,000) or more according to the latest  
5 Federal Decennial Census, or a political subdivision as defined in  
6 subparagraph s of paragraph 11 of Section 152 of this title, shall  
7 not exceed ~~One Hundred Seventy-five Thousand Dollars (\$175,000.00)~~  
8 Two Hundred Seventy-five Thousand Dollars (\$275,000.00). Except,  
9 however, the limits of the liability for the University Hospitals  
10 and State Mental Health Hospitals operated by the Department of  
11 Mental Health and Substance Abuse Services for claims arising from  
12 medical negligence shall be ~~Two Hundred Thousand Dollars~~  
13 ~~(\$200,000.00)~~ Three Hundred Thousand Dollars (\$300,000.00). For  
14 claims arising from medical negligence by any licensed physician,  
15 osteopathic physician or certified nurse-midwife rendering prenatal,  
16 delivery or infant care services from September 1, 1991, through  
17 June 30, 1996, pursuant to a contract authorized by subsection B of  
18 Section 1-106 of Title 63 of the Oklahoma Statutes and in conformity  
19 with the requirements of Section 1-233 of Title 63 of the Oklahoma  
20 Statutes, the limits of the liability shall be ~~Two Hundred Thousand~~  
21 ~~Dollars (\$200,000.00)~~ Three Hundred Thousand Dollars (\$300,000.00);  
22 or  
23  
24

1        3. ~~One Million Dollars (\$1,000,000.00)~~ One Million Five Hundred  
2 Thousand Dollars (\$1,500,000.00) for any number of claims arising  
3 out of a single occurrence or accident.

4        B. 1. Beginning on May 28, 2003, claims shall be allowed for  
5 wrongful criminal felony conviction resulting in imprisonment if the  
6 claimant has received a full pardon on the basis of a written  
7 finding by the Governor of actual innocence for the crime for which  
8 the claimant was sentenced or has been granted judicial relief  
9 absolving the claimant of guilt on the basis of actual innocence of  
10 the crime for which the claimant was sentenced. The Governor or the  
11 court shall specifically state, in the pardon or order, the evidence  
12 or basis on which the finding of actual innocence is based.

13        2. As used in paragraph 1 of this subsection, for a claimant to  
14 recover based on "actual innocence", the individual must meet the  
15 following criteria:

- 16            a. the individual was charged, by indictment or  
17                information, with the commission of a public offense  
18                classified as a felony,  
19            b. the individual did not plead guilty to the offense  
20                charged, or to any lesser included offense, but was  
21                convicted of the offense,  
22            c. the individual was sentenced to incarceration for a  
23                term of imprisonment as a result of the conviction,  
24

1           d.    the individual was imprisoned solely on the basis of  
2               the conviction for the offense, and

3           e.    (1)   in the case of a pardon, a determination was made  
4               by either the Pardon and Parole Board or the  
5               Governor that the offense for which the  
6               individual was convicted, sentenced and  
7               imprisoned, including any lesser offenses, was  
8               not committed by the individual, or

9               (2)   in the case of judicial relief, a court of  
10              competent jurisdiction found by clear and  
11              convincing evidence that the offense for which  
12              the individual was convicted, sentenced and  
13              imprisoned, including any lesser included  
14              offenses, was not committed by the individual and  
15              issued an order vacating, dismissing or reversing  
16              the conviction and sentence and providing that no  
17              further proceedings can be or will be held  
18              against the individual on any facts and  
19              circumstances alleged in the proceedings which  
20              had resulted in the conviction.

21           3.    A claimant shall not be entitled to compensation for any  
22   part of a sentence in prison during which the claimant was also  
23   serving a concurrent sentence for a crime not covered by this  
24   subsection.

1       4. The total liability of the state and its political  
2 subdivisions on any claim within the scope of The Governmental Tort  
3 Claims Act arising out of wrongful criminal felony conviction  
4 resulting in imprisonment shall not exceed ~~One Hundred Seventy-five~~  
5 ~~Thousand Dollars (\$175,000.00)~~ Two Hundred Seventy-five Thousand  
6 Dollars (\$275,000.00).

7       5. The provisions of this subsection shall apply to convictions  
8 occurring on or before May 28, 2003, as well as convictions  
9 occurring after May 28, 2003. If a court of competent jurisdiction  
10 finds that retroactive application of this subsection is  
11 unconstitutional, the prospective application of this subsection  
12 shall remain valid.

13       C. No award for damages in an action or any claim against the  
14 state or a political subdivision shall include punitive or exemplary  
15 damages.

16       D. When the amount awarded to or settled upon multiple  
17 claimants exceeds the limitations of this section, any party may  
18 apply to the district court which has jurisdiction of the cause to  
19 apportion to each claimant the claimant's proper share of the total  
20 amount as limited herein. The share apportioned to each claimant  
21 shall be in the proportion that the ratio of the award or settlement  
22 made to ~~him~~ each claimant bears to the aggregate awards and  
23 settlements for all claims against the state or its political  
24 subdivisions arising out of the occurrence. When the amount of the

1 aggregate losses presented by a single claimant exceeds the limits  
2 of paragraph 1 or 2 of subsection A of this section, each person  
3 suffering a loss shall be entitled to that person's proportionate  
4 share.

5 E. The total liability of resident physicians and interns while  
6 participating in a graduate medical education program of the  
7 University of Oklahoma College of Medicine, its affiliated  
8 institutions and the Oklahoma State University College of  
9 Osteopathic Medicine ~~and Surgery~~ shall not exceed ~~One Hundred~~  
10 ~~Thousand Dollars (\$100,000.00)~~ One Hundred Fifty Thousand Dollars  
11 (\$150,000.00).

12 F. The state or a political subdivision may petition the court  
13 that all parties and actions arising out of a single accident or  
14 occurrence shall be joined as provided by law, and upon order of the  
15 court the proceedings upon good cause shown shall be continued for a  
16 reasonable time or until such joinder has been completed. The state  
17 or political subdivision shall be allowed to interplead in any  
18 action which may impose on it any duty or liability pursuant to The  
19 Governmental Tort Claims Act.

20 G. The liability of the state or political subdivision under  
21 The Governmental Tort Claims Act shall be several from that of any  
22 other person or entity, and the state or political subdivision shall  
23 only be liable for that percentage of total damages that corresponds  
24 to its percentage of total negligence. Nothing in this section

1 shall be construed as increasing the liability limits imposed on the  
2 state or political subdivision under The Governmental Tort Claims  
3 Act.

4 SECTION 2. This act shall become effective November 1, 2022.

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
6 March 3, 2022 - DO PASS. Title stricken by Committee on Judiciary.  
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