

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 2373

By: Kannady

COMMITTEE SUBSTITUTE

An Act relating to The Governmental Tort Claims Act;  
amending 51 O.S. 2011, Section 154, which relates to  
extent of liability; modifying limits of liability;  
and providing an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2011, 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 the effective date of this act, Section  
151 et seq. of this title, shall not exceed:

1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ The actual amount  
of loss 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)~~ Three Hundred Seventy-  
five Thousand Dollars (\$375,000.00) to any claimant for a claim for  
any other loss arising out of a single act, accident, or occurrence.  
The limit of liability for the state or any city or county with a  
population of three hundred thousand (300,000) or more according to  
the latest Federal Decennial Census shall not exceed ~~One Hundred~~  
~~Seventy five Thousand Dollars (\$175,000.00)~~ Five Hundred Thousand  
Dollars (\$500,000.00). Except however, the limits of said liability  
for the University Hospitals and State Mental Health Hospitals  
operated by the Department of Mental Health and Substance Abuse  
Services for claims arising from medical negligence shall be ~~Two~~  
~~Hundred Thousand Dollars (\$200,000.00)~~ Three Hundred Fifty Thousand  
Dollars (\$350,000.00). For claims arising from medical negligence  
by any licensed physician, osteopathic physician or certified nurse-  
midwife rendering prenatal, delivery or infant care services from  
September 1, 1991, through June 30, 1996, pursuant to a contract  
authorized by subsection B of Section 1-106 of Title 63 of the  
Oklahoma Statutes and in conformity with the requirements of Section  
1-233 of Title 63 of the Oklahoma Statutes, the limits of said  
liability shall be ~~Two Hundred Thousand Dollars (\$200,000.00)~~ Three  
Hundred Fifty Thousand Dollars (\$350,000.00); or

1        3. ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars

2        (\$2,000,000.00) for any number of claims arising out of a single  
3        occurrence or accident.

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

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

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

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)~~ Three Hundred Thousand Dollars  
6 (\$300,000.00).

7        5. The provisions of this subsection shall apply to convictions  
8 occurring on or before the effective date of this act as well as  
9 convictions occurring after the effective date of this act. If a  
10 court of competent jurisdiction finds that retroactive application  
11 of this subsection is unconstitutional, the prospective application  
12 of this subsection 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 Seventy-five Thousand  
11 Dollars (\$175,000.00).

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 this  
19 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, 2023.

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6 59-1-7940 GRS 03/02/23  
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