

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1811

By: Daniels

4
5
6 AS INTRODUCED

7 An Act relating to constitutional rights; defining
8 terms; providing for liability for violation of
9 constitutional rights; authorizing action for certain
10 relief; prohibiting financial liability of certain
11 employee; requiring certain notification; authorizing
12 intervention by certain employer; prohibiting
13 application of certain immunity; providing certain
14 immunity; prohibiting certain class action;
15 establishing requirements for certain claim;
16 establishing burden of proof for certain claim;
17 clarifying jurisdiction; directing court in making
18 certain determinations; providing for liability for
19 certain costs and fees; authorizing termination of
20 employee under certain circumstances; requiring
21 public disclosure of certain information; providing
22 for severability; providing for codification; and
23 providing an effective date.

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

25 SECTION 1. NEW LAW A new section of law to be codified
26 in the Oklahoma Statutes as Section 2400 of Title 21, unless there
27 is created a duplication in numbering, reads as follows:

28 A. For the purposes of this section:

29 1. "Government" means the state or any county, municipal, or
30 other political subdivision in this state;

1 2. "Government employee" means an individual employed or
2 contracted by a government employer; and

3 3. "Government employer" means an executive, legislative, or
4 judicial agency, department, board, commission, authority,
5 institution, or instrumentality of the state or of a county,
6 municipality, or other political subdivision in this state.

7 B. 1. A government employer shall be liable for an injury
8 caused by an act or omission of a government employee who, under
9 color of law, violates a right under the Constitution of this state
10 or the United States. An aggrieved person may seek legal,
11 equitable, or other relief in a court of this state for a violation
12 of a right under the Constitution of this state or the United
13 States. The proper defendant in an action under this section is the
14 government employer and not a government employee. A government
15 employee shall not be found financially liable for a violation of a
16 right under the Constitution of this state or the United States.

17 2. The government employer shall notify the government employee
18 whose act or omission is the subject of a claim under this section
19 within ten (10) days of the government employer being served in such
20 action. The government employee shall have an unconditional right
21 to intervene in the action as a third-party defendant pursuant to
22 the laws and court rules of this state.

23 3. An action under this section shall not be subject to:

24 a. common law doctrines of immunity,
25

- b. federally-recognized doctrines of qualified immunity,
- c. sovereign immunity, governmental immunity, custom, or policy, or
- d. statutory immunities and limitations on liability or damages.

4. Nothing in this section abrogates immunity for judges and legislators at any level of government for actions taken in their respective judicial or legislative capacities.

5. Notwithstanding any other provision of law, a class action shall be prohibited under the provisions of this section.

6. A claim shall commence no later than three (3) years from the date of the deprivation of a right under the Constitution of this state or the United States. The plaintiff shall prove by a preponderance of the evidence that the government employee violated a right under the Constitution of this state or the United States.

7. An action under this section arises out of state law, with jurisdiction in the judicial system of this state pursuant to the requirements of Title 12 of the Oklahoma Statutes and other applicable laws of this state.

C. When evaluating the use of force of a government employee under the Constitution of this state or the United States, the determination of reasonableness of the court shall be objective and made from the perspective of a reasonable government employee on the scene confronted with the immediate facts and circumstances of the

1 claim. The court shall recognize that a government employee often
2 must make split-second decisions in tense, uncertain, and rapidly
3 evolving situations. A court shall not determine reasonableness
4 using hindsight or based on facts and circumstances that are
5 discovered later. The order of the court shall be supported by
6 findings of facts and conclusions of law. The court shall make the
7 findings of fact in a bench trial and the jury shall make them in a
8 jury trial. The court shall make conclusions of law.

9 D. 1. In any proceeding in which the claim of a plaintiff
10 prevails, the government shall be liable for reasonable attorney
11 fees and other litigation costs. Reasonable attorney fees include
12 those incurred on an hourly or contingency basis, or by an attorney
13 providing services on a pro bono basis.

14 2. The court shall recognize that the claim of a plaintiff
15 prevails if the plaintiff obtains any relief the plaintiff seeks in
16 his or her complaint, whether the relief is obtained via judgment,
17 settlement, or the voluntary change in behavior of the government.

18 3. As required pursuant to Section 2011.1 of Title 12 of the
19 Oklahoma Statutes, the court may dismiss a frivolous claim and shall
20 award reasonable costs and attorney fees to the prevailing party.

21 E. 1. For any contract or agreement entered into after the
22 effective date of this act and notwithstanding any other provision
23 of law, a court finding that a government employee violated a right
24 under the Constitution of this state or the United States under the

1 provisions of this section is per se evidence that the government
2 employer has just cause for termination of the employment of the
3 government employee.

4 2. The termination of a contract, agreement, or employment with
5 a government employee by a government shall not affect the liability
6 of a government under the provisions of this section.

7 F. All documents, including complaints, judgments, settlements,
8 and consent decrees, are subject to public disclosure.

9 SECTION 2. The provisions of this act are severable and if any
10 part or provision shall be held void the decision of the court so
11 holding shall not affect or impair any of the remaining parts or
12 provisions of this act.

13 SECTION 3. This act shall become effective November 1, 2024.

14
15 59-2-2811 TEK 1/17/2024 3:49:15 PM
16
17
18
19
20
21
22
23
24
25