

An Act

ENROLLED HOUSE
BILL NO. 2235

By: Munson, Deck, Kannady,
Archer, Humphrey, Manger,
Stewart, Pittman, Woolley,
and Hefner of the House

and

Daniels and Goodwin of the
Senate

An Act relating to wrongful convictions; amending 22 O.S. 2021, Section 19, as last amended by Section 2, Chapter 259, O.S.L. 2024 (22 O.S. Supp. 2024, Section 19), which relates to procedures for filing expungement requests; authorizing expungement hearings within certain period of time; establishing notice requirement; amending 51 O.S. Section 154, which relates to The Governmental Tort Claims Act; updating certain date related to filing claims; modifying scope of certain definition; increasing liability amount for claims of wrongful incarceration; providing for supplemental compensation under certain circumstances; stating guidelines for payments of awards; allowing claimants to obtain group health benefit plan coverage; providing limitations; requiring payment of monthly contribution for coverage; directing the Legislature to appropriate funds to certain revolving fund for certain purpose; authorizing the Department of Corrections to seek reimbursement for expenditures; modifying effective dates for certain claims; directing the Department of Corrections to provide certain information to wrongfully imprisoned persons; providing for the waiver of resident and nonresident tuition, room and board, and mandatory fees for wrongfully incarcerated persons and their children; providing limitation for credit hours; defining term; and providing for codification.

SUBJECT: Wrongful convictions

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 19, as last amended by Section 2, Chapter 259, O.S.L. 2024 (22 O.S. Supp. 2024, Section 19), is amended to read as follows:

Section 19. A. Any person qualified under Section 18 of this title may petition the district court of the district in which the arrest information pertaining to the person is located for the sealing of all or any part of the record, except basic identification information.

B. The process for the automatic expungement of a clean slate eligible arrest record as defined in subsection C of Section 18 of this title is as follows:

1. On a monthly basis, the Oklahoma State Bureau of Investigation shall identify arrest records which are clean slate eligible by conducting a search of the criminal history repository records of the Bureau;

2. The Bureau shall, on a monthly basis, provide a list of clean slate eligible arrest records to the prosecuting agency and the arresting agency;

3. The prosecuting agency, arresting agency, and the Bureau may, no later than forty-five (45) days from the day on which the notice described in paragraph 2 of this subsection is transmitted, object to an automatic expungement and such objection shall be transmitted to all parties. An objection may be made for any of the following reasons:

- a. after reviewing the agency record, the agency believes the arrest record does not meet the definition of a clean slate eligible arrest record,
- b. the individual has not paid court-ordered restitution to the victim, or
- c. the agency has a reasonable belief, grounded in supporting facts, that an individual with a clean

slate eligible arrest record is continuing to engage in criminal activity, whether charged or not charged, within or outside the state;

4. If an agency identified in paragraph 3 of this subsection objects for a reason described in paragraph 3 of this subsection within forty-five (45) days of the day on which the notice described in paragraph 2 of this subsection is transmitted, the record shall not be expunged. Once a year, the Bureau shall electronically submit a report to the Legislature with a list of all cases where a record was not expunged pursuant to this paragraph; and

5. After forty-five (45) days pass from the day on which the notice described in paragraph 2 of this subsection is sent, the Bureau shall provide to the courts a list of all cases where responses from all parties were received and no parties objected. The court shall review this list and provide to all agencies that have criminal history records a signed expungement order for all cases approved. Upon receipt of a signed expungement order, each agency shall seal the relevant records.

The Bureau and the Supreme Court may promulgate rules to govern the process for automatic expungement of records for a clean slate eligible arrest record in accordance with this subsection.

C. 1. Nothing in this section precludes an individual from filing a petition for expungement of records that are eligible for automatic expungement under subsection C of Section 18 of this title if an automatic expungement has not occurred pursuant to subsection B of this section.

2. An individual does not have a cause of action for damages as a result of the failure of the Bureau to identify an arrest record as eligible for automatic expungement.

D. An automatic expungement granted under subsection B of this section does not preclude an individual from requesting the unsealing of records in accordance with subsection P of this section.

E. Upon the filing of a petition or entering of a court order as prescribed in subsection A of this section, the court shall set a date for a hearing and shall provide thirty (30) days of notice of the hearing to the prosecuting agency, the arresting agency, the Oklahoma State Bureau of Investigation, and any other person or

agency whom the court has reason to believe may have relevant information related to the sealing of such record.

F. If a petitioner requests expungement for multiple offenses in one county, each of which would qualify for expungement if processed sequentially, the expungements may be considered under a single petition. The petitioner shall not be required to submit multiple petitions to accomplish the sequential sealing of multiple offenses in a single county.

G. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order such records, or any part thereof except basic identification information, to be sealed. If the court finds that neither sealing of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to such records.

Any order entered under this subsection shall specify those agencies to which such order shall apply. Any order entered pursuant to this subsection may be appealed by the petitioner, the prosecuting agency, the arresting agency, or the Oklahoma State Bureau of Investigation to the Supreme Court in accordance with the rules of the Supreme Court. In all such appeals, the Oklahoma State Bureau of Investigation is a necessary party and must be given notice of the appellate proceedings.

H. Upon the entry of an order to seal the records, or any part thereof, or upon an automatic expungement described in subsection B of this section, the subject official actions shall be deemed never to have occurred, and the person in interest and all criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to such person.

I. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of such records, the Attorney General, or by the prosecuting agency and only to those persons and for such purposes named in such petition.

J. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to

disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records, provide information that has been sealed, including any reference to or information concerning such sealed information and may state that no such action has ever occurred. Such an application may not be denied solely because of the refusal of the applicant to disclose arrest and criminal records information that has been sealed.

K. All arrest and criminal records information existing prior to May 14, 1987, except basic identification information, is also subject to sealing in accordance with subsection G of this section.

L. Nothing in this section shall be construed to authorize the physical destruction of any criminal justice records.

M. For the purposes of this section, sealed materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

N. For the purposes of this section, district court index reference of sealed material shall be destroyed, removed or obliterated.

O. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of the ten-year period.

P. Subsequent to records being sealed as provided herein, the prosecuting agency, the arresting agency, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing such records. Upon filing of a petition, the court shall set a date for hearing, which hearing may be closed at the discretion of the court, and shall provide thirty (30) days of notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

Q. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

R. If a person qualifies for an expungement under the provisions of paragraph 3 of subsection A of Section 18 of this title and the petition for expungement is granted by the court, the court shall order the reimbursement of all filing fees and court costs incurred by the petitioner as a result of filing the expungement request.

S. If a person qualifies for an expungement under the provisions of paragraph 3 or 4 of subsection A of Section 18 of this title, the person may request a hearing be set within thirty (30) days after the date of filing the petition for expungement. The court shall grant the request for the hearing and shall provide a notice of no less than ten (10) days for said hearing to the prosecuting agency, the arresting agency, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the sealing of such record. Any order entered pursuant to the provisions of this subsection shall be subject to the provisions of subsections F through P of this section.

T. Any offense that has been expunged shall not be treated as a prior offense in determining whether another offense qualifies for an expungement under Section 18 of this title.

SECTION 2. 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) 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) 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, or a political subdivision as defined in subparagraph s of paragraph 11 of Section

152 of this title, shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00). Except however, the limits of the 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). 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 the liability shall be Two Hundred Thousand Dollars (\$200,000.00); or

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

B. 1. Beginning on ~~May 28, 2003~~ July 1, 2025, claims shall be allowed for wrongful criminal felony conviction resulting in imprisonment if the claimant has received a full pardon on the basis of a written finding by the Governor of actual innocence for the crime for which the claimant was sentenced or has been granted judicial relief absolving the claimant of guilt on the basis of actual innocence of the crime for which the claimant was sentenced. The Governor or the court shall specifically state, in the pardon or order, the evidence or basis on which the finding of actual innocence is based.

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

- a. the individual was charged, by indictment or information, with the commission of a public offense classified as a felony,
- b. ~~the individual did not plead guilty to the offense charged, or to any lesser included offense, but was convicted of the offense,~~
- ~~c.~~ the individual was sentenced to incarceration for a term of imprisonment as a result of the conviction,
- ~~d.~~

c. the individual was imprisoned solely on the basis of the conviction for the offense, and

e.

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

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

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

4. The total liability of the state and its political subdivisions on any claim within the scope of The Governmental Tort Claims Act arising out of wrongful criminal felony conviction resulting in imprisonment shall ~~not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00)~~ be in an amount equal to Fifty Thousand Dollars (\$50,000.00) multiplied by the number of years served in prison, expressed as a fraction to reflect partial years.

5. In addition to the award of damages provided for in paragraph 4 of this subsection, a claimant who served his or her time on death row shall be entitled to receive supplemental compensation in the amount of Fifty Thousand Dollars (\$50,000.00) multiplied by the number of years the person served on death row, expressed as a fraction to reflect partial years.

6. In addition to the award of damages provided for in paragraph 4 of this subsection, a claimant who was released on parole or released under conditions of probation shall be entitled to receive supplemental compensation in the amount of Twenty-five Thousand Dollars (\$25,000.00) multiplied by the number of years the person was on parole or under probation, expressed as a fraction to reflect partial years.

7. A claimant entitled to compensation under the provisions of this subsection shall be entitled to an award of damages under this subsection of One Million Dollars (\$1,000,000.00) or less shall be paid to the claimant in a lump sum. If an award of damages under this subsection exceeds One Million Dollars (\$1,000,000.00), then One Million Dollars (\$1,000,000.00) of the award shall be paid to the claimant in a lump sum and the remainder shall be paid annually in equal payments over a period of three (3) years.

8. A claimant entitled to compensation under the provisions of this subsection shall be eligible to obtain group health benefit plan coverage through the Department of Corrections as if the person were an employee of the Department. The provisions of this paragraph shall not entitle the spouse or other dependent or family member to group health benefit plan coverage. Coverage may be obtained under the provisions of this paragraph for a period of time equal to the total period the claimant served for the crime for which the claimant was wrongfully incarcerated, including any period during which the claimant was released on parole or released under conditions of probation. A claimant who elects to obtain coverage under the provisions of this paragraph shall pay a monthly contribution equal to the total amount of the monthly contribution for that coverage that an employee of the Department would pay. The Legislature shall appropriate funds to the Tort Claims Liability Revolving Fund for costs associated with providing group health benefit plan coverage by the Department to a claimant under the provisions of this paragraph. The Department may seek reimbursement from the Tort Claims Liability Revolving Fund for all expenditures related to providing said coverage.

9. The provisions of this subsection shall apply to ~~convictions~~ ~~exonerations~~ occurring on ~~or before May 28, 2003,~~ as well as ~~convictions occurring and after May 28, 2003~~ July 1, 2025. If a court of competent jurisdiction finds that retroactive application of this subsection is unconstitutional, the prospective application of this subsection shall remain valid.

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

D. When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant the claimant's proper share of the total amount as limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims against the state or its political subdivisions arising out of the occurrence. When the amount of the aggregate losses presented by a single claimant exceeds the limits of paragraph 1 or 2 of subsection A of this section, each person suffering a loss shall be entitled to that person's proportionate share.

E. The total liability of resident physicians and interns while participating in a graduate medical education program of the University of Oklahoma College of Medicine, its affiliated institutions and the Oklahoma College of Osteopathic Medicine and Surgery shall not exceed One Hundred Thousand Dollars (\$100,000.00).

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

G. The liability of the state or political subdivision under The Governmental Tort Claims Act shall be several from that of any other person or entity, and the state or political subdivision shall only be liable for that percentage of total damages that corresponds to its percentage of total negligence. Nothing in this section shall be construed as increasing the liability limits imposed on the state or political subdivision under The Governmental Tort Claims Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 360.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections shall provide to each wrongfully imprisoned person information that includes:

1. A copy of Section 154 of Title 51 of the Oklahoma Statutes which sets forth the extent of liability of the state and its political subdivisions for wrongful criminal felony convictions and imprisonment pursuant to The Governmental Tort Claims Act; and

2. A list of and contact information for nonprofit advocacy groups, identified by the Department, that assist persons upon release from a penal institution.

B. The Department shall provide the information:

1. At the time of the release of the wrongfully imprisoned person from a penal institution; or

2. As soon as practicable after the Department has reason to believe that the person is entitled to compensation.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.7-2 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Within The Oklahoma State System of Higher Education or the system of career technology districts, no resident tuition, nonresident tuition, room and board, and any mandatory fees associated with such attendance shall be charged to:

1. A person who was wrongfully incarcerated and awarded compensation pursuant to the provisions of subsection B of Section 154 of Title 51; and

2. Children of any person wrongfully incarcerated and the person was awarded compensation pursuant to the provisions of subsection B of Section 154 of Title 51.

B. Such waiver of resident tuition, nonresident tuition, room and board, and mandatory fees associated with such attendance shall be limited to one hundred twenty (120) credit hours.

C. As used in this section, the term "children" includes children by birth and by adoption.

Passed the House of Representatives the 15th day of May, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 6th day of May, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____