

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 SENATE BILL 1638

By: Woods

6 AS INTRODUCED

7 An Act relating to The Governmental Tort Claims Act;  
8 amending 51 O.S. 2021, Sections 152, as last amended  
9 by Section 1, Chapter 314, O.S.L. 2025, and 154, as  
10 amended by Section 2, Chapter 314, O.S.L. 2025 (51  
11 O.S. Supp. 2025, Sections 152 and 154), which relate  
12 to definitions and extent of liability; modifying  
13 definition; authorizing award of certain costs and  
14 fees; and providing an effective date.

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

16 SECTION 1. AMENDATORY 51 O.S. 2021, Section 152, as last  
17 amended by Section 1, Chapter 314, O.S.L. 2025 (51 O.S. Supp. 2025,  
18 Section 152), is amended to read as follows:

19 Section 152. As used in The Governmental Tort Claims Act:

20 1. "Action" means a proceeding in a court of competent  
21 jurisdiction by which one party brings a suit against another;

22 2. "Agency" means any board, commission, committee, department  
23 or other instrumentality or entity designated to act in behalf of  
24 the state or a political subdivision;

25 3. "Charitable health care provider" means a person who is  
26 licensed, certified, or otherwise authorized by the laws of this

1 state to administer health care in the ordinary course of business  
2 or the practice of a profession and who provides care to a medically  
3 indigent person, as defined in paragraph 9 of this section, with no  
4 expectation of or acceptance of compensation of any kind;

5 4. "Claim" means any written demand presented by a claimant or  
6 the claimant's authorized representative in accordance with The  
7 Governmental Tort Claims Act to recover money from the state or  
8 political subdivision as compensation for an act or omission of a  
9 political subdivision or the state or an employee;

10 5. "Claimant" means the person or the person's authorized  
11 representative who files notice of a claim in accordance with The  
12 Governmental Tort Claims Act. Only the following persons and no  
13 others may be claimants:

14 a. any person holding an interest in real or personal  
15 property which suffers a loss, provided that the claim  
16 of the person shall be aggregated with claims of all  
17 other persons holding an interest in the property and  
18 the claims of all other persons which are derivative  
19 of the loss, and that multiple claimants shall be  
20 considered a single claimant,

21 b. the individual actually involved in the accident or  
22 occurrence who suffers a loss, provided that the  
23 individual shall aggregate in the claim the losses of  
24 all other persons which are derivative of the loss, or

- c. in the case of death, an administrator, special administrator or a personal representative who shall aggregate in the claim all losses of all persons which are derivative of the death;

6. "Community health care provider" means:

- a. a health care provider who volunteers services at a community health center that has been deemed by the U.S. Department of Health and Human Services as a federally qualified health center as defined by 42 U.S.C., Section 1396d(l)(2)(B),

b. a health provider who provides services to an organization that has been deemed a federally qualified look-alike community health center, and

c. a health care provider who provides services to a community health center that has made application to the U.S. Department of Health and Human Services for approval and deeming as a federally qualified look-alike community health center in compliance with

1 official notification from the U.S. Department of  
2 Health and Human Services requiring resubmission of a  
3 new application;

4 7. "Employee" means any person who is authorized to act in  
5 behalf of a political subdivision or the state whether that person  
6 is acting on a permanent or temporary basis, with or without being  
7 compensated or on a full-time or part-time basis.

8 a. Employee also includes:

9 (1) all elected or appointed officers, members of  
10 governing bodies and other persons designated to  
11 act for an agency or political subdivision, but  
12 the term does not mean a person or other legal  
13 entity while acting in the capacity of an  
14 independent contractor or an employee of an  
15 independent contractor,

16 (2) from September 1, 1991, through June 30, 1996,  
17 licensed physicians, licensed osteopathic  
18 physicians and Certified Nurse-Midwives providing  
19 prenatal, delivery or infant care services to  
20 State Department of Health clients pursuant to a  
21 contract entered into with the State Department  
22 of Health in accordance with paragraph 3 of  
23 subsection C of Section 1-106 of Title 63 of the  
24 Oklahoma Statutes but only insofar as services

authorized by and in conformity with the terms of  
the contract and the requirements of Section 1-

(3) any volunteer, full-time or part-time firefighter when performing duties for a fire department provided for in subparagraph j of paragraph 12 of this section.

b. For the purposes of The Governmental Tort Claims Act, the following are employees of this state, regardless of the place in this state where duties as employees are performed:

(1) physicians acting in an administrative capacity,

(2) resident physicians and resident interns participating in a graduate medical education program of the University of Oklahoma Health Sciences Center, the Oklahoma State University College of Osteopathic Medicine, a public trust created pursuant to Section 3224 of Title 63 of the Oklahoma Statutes and any sole member not-for-profit corporation of the public trust and any sole member not-for-profit subsidiary of such corporation, or the Department of Mental Health and Substance Abuse Services,

- (3) faculty members and staff of the University of Oklahoma Health Sciences Center, the Oklahoma State University College of Osteopathic Medicine, or a public trust created pursuant to Section 3224 of Title 63 of the Oklahoma Statutes and any sole member not-for-profit corporation of the public trust and any sole member not-for-profit subsidiary of such corporation, while engaged in teaching duties,
- (4) physicians who practice medicine or act in an administrative capacity as an employee of an agency of this state,
- (5) physicians who provide medical care to inmates pursuant to a contract with the Department of Corrections,
- (6) any person who is licensed to practice medicine pursuant to Title 59 of the Oklahoma Statutes, who is under an administrative professional services contract with the Oklahoma Health Care Authority under the auspices of the Oklahoma Health Care Authority Chief Medical Officer, and who is limited to performing administrative duties such as professional guidance for medical reviews, reimbursement rates, service

1 utilization, health care delivery and benefit  
2 design for the Oklahoma Health Care Authority,  
3 only while acting within the scope of such  
4 contract,

5 (7) licensed medical professionals under contract  
6 with city, county, or state entities who provide  
7 medical care to inmates or detainees in the  
8 custody or control of law enforcement agencies,  
9 (8) licensed mental health professionals as defined  
10 in Sections 1-103 and 5-502 of Title 43A of the  
11 Oklahoma Statutes, who are conducting initial  
12 examinations of individuals for the purpose of  
13 determining whether an individual meets the  
14 criteria for emergency detention as part of a  
15 contract with the Department of Mental Health and  
16 Substance Abuse Services, and  
17 (9) licensed mental health professionals as defined  
18 in Sections 1-103 and 5-502 of Title 43A of the  
19 Oklahoma Statutes, who are providing mental  
20 health or substance abuse treatment services  
21 under a professional services contract with the  
22 Department of Mental Health and Substance Abuse  
23 Services and are providing such treatment  
24 services at a state-operated facility.

1 Physician faculty members and physician staff of the  
2 University of Oklahoma Health Sciences Center, the  
3 Oklahoma State University College of Osteopathic  
4 Medicine, or a public trust created pursuant to  
5 Section 3224 of Title 63 of the Oklahoma Statutes and  
6 any sole member not-for-profit corporation of the  
7 public trust and any sole member not-for-profit  
8 subsidiary of such corporation not acting in an  
9 administrative capacity or engaged in teaching duties  
10 are not employees or agents of the state.

11 c. For the purposes of The Governmental Tort Claims Act,  
12 employee shall include independent contractors and  
13 employees of independent contractors while actively  
14 engaged in the transport of individuals in need of  
15 initial assessment, emergency detention, or protective  
16 custody as authorized by Section 1-110 of Title 43A of  
17 the Oklahoma Statutes.

18 d. Except as provided in subparagraph b of this  
19 paragraph, in no event shall the state be held liable  
20 for the tortious conduct of any physician, resident  
21 physician or intern while practicing medicine or  
22 providing medical treatment to patients.

23 e. For purposes of The Governmental Tort Claims Act,  
24 members of the state military forces on state active

duty orders or on Title 32 active duty orders are employees of this state, regardless of the place, within or outside this state, where their duties as employees are performed;

8. "Loss" means death or injury to the body or rights of a person or damage to real or personal property or rights therein;

9. "Medically indigent" means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person who has no public or private third-party coverage, and whose personal resources are insufficient to provide for needed health care;

10. "Municipality" means any incorporated city or town, and all institutions, agencies or instrumentalities of a municipality;

11. "Occurrence" means a loss arising out of an accident or event or a continuous or repeated exposure to substantially the same general harmful conditions. All losses arising out of an accident or event or a continuous or repeated exposure to substantially the same general harmful conditions shall be deemed to have arisen out of one occurrence. For purposes of determining accrual under The Governmental Tort Claims Act, a claim based on a continuous, repeated, or ongoing accident, event, or exposure shall not be deemed to have accrued until such accident, event, or exposure has ceased or been abated;

12. "Political subdivision" means:

- a. a municipality,
- b. a school district, including, but not limited to, a technology center school district established pursuant to Section 4410, 4411, 4420 or 4420.1 of Title 70 of the Oklahoma Statutes, or a public library as defined pursuant to Section 1-104 of Title 65 of the Oklahoma Statutes,
- c. a county,
- d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of The Governmental Tort Claims Act, a public trust shall include:
  - (1) a municipal hospital created pursuant to Sections 30-101 through 30-109 of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Sections 781 through 796 of Title 19 of the Oklahoma Statutes, or is created pursuant to a joint agreement between such governing authorities, that is operated for the public benefit by a public trust created pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes and managed by a governing board appointed or elected by the municipality, county, or both, who exercises control of the

hospital, subject to the approval of the governing body of the municipality, county, or both,

(2) a public trust created pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes after January 1, 2009, the primary purpose of which is to own, manage, or operate a public acute care hospital in this state that serves as a teaching hospital for a medical residency program provided by a college of osteopathic medicine and provides care to indigent persons, and

(3) a corporation in which all of the capital stock is owned, or a limited liability company in which all of the member interest is owned, by a public trust,

e. for the purposes of The Governmental Tort Claims Act only, a housing authority created pursuant to the provisions of the Oklahoma Housing Authorities Act,

f. for the purposes of The Governmental Tort Claims Act only, corporations organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act for the primary purpose of developing and

providing rural water supply and sewage disposal facilities to serve rural residents,

- g. for the purposes of The Governmental Tort Claims Act only, districts formed pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act,
- h. for the purposes of The Governmental Tort Claims Act only, master conservancy districts formed pursuant to the Conservancy Act of Oklahoma,
- i. for the purposes of The Governmental Tort Claims Act only, a fire protection district created pursuant to the provisions of Section 901.1 et seq. of Title 19 of the Oklahoma Statutes,
- j. for the purposes of The Governmental Tort Claims Act only, a benevolent or charitable corporate volunteer or full-time fire department for an unincorporated area created pursuant to the provisions of Section 592 et seq. of Title 18 of the Oklahoma Statutes,
- k. for purposes of The Governmental Tort Claims Act only, an emergency services provider rendering services pursuant to an existing contract between the emergency services provider and the State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such emergency services provider performed within this

1 state shall not operate as a waiver of any of the  
2 limitations, immunities or defenses provided for  
3 political subdivisions pursuant to the terms of The  
4 Governmental Tort Claims Act,

5 l. for purposes of The Governmental Tort Claims Act only,  
6 a conservation district created pursuant to the  
7 provisions of the Conservation District Act,

8 m. for purposes of The Governmental Tort Claims Act,  
9 districts formed pursuant to the Oklahoma Irrigation  
10 District Act,

11 n. for purposes of The Governmental Tort Claims Act only,  
12 any community action agency established pursuant to  
13 Sections 5035 through 5040.1 of Title 74 of the  
14 Oklahoma Statutes,

15 o. for purposes of The Governmental Tort Claims Act only,  
16 any organization that is designated as a youth  
17 services agency, pursuant to Section 2-7-306 of Title  
18 10A of the Oklahoma Statutes,

19 p. for purposes of The Governmental Tort Claims Act only,  
20 any judge presiding over a drug court, as defined by  
21 Section 471.1 of Title 22 of the Oklahoma Statutes,

22 q. for purposes of The Governmental Tort Claims Act only,  
23 any child-placing agency licensed by this state to  
24 place children in foster family homes,

- r. for purposes of The Governmental Tort Claims Act only, a circuit engineering district created pursuant to Section 687.1 of Title 69 of the Oklahoma Statutes,
- s. for purposes of The Governmental Tort Claims Act only, a substate planning district, regional council of government or other entity created pursuant to Section 1001 et seq. of Title 74 of the Oklahoma Statutes, and
- t. for purposes of The Governmental Tort Claims Act only, a regional transportation authority created pursuant to Section 1370.7 of Title 68 of the Oklahoma Statutes including its contract operator and any railroad operating in interstate commerce that sells a property interest or provides services to a regional transportation authority or allows the authority to use the property or tracks of the railroad for the provision of public passenger rail service to the extent claims against the contract operator or railroad arise out of or are related to or in connection with such property interest, services or operation of the public passenger rail service.

Provided, the acquisition of commercial liability insurance to cover the activities of the regional transportation authority, contract operator or railroad shall not operate as a waiver of any

liabilities, immunities or defenses provided pursuant to the provisions of The Governmental Tort Claims Act, and all their institutions, instrumentalities or agencies;

13. "Scope of employment" means performance by an employee acting in good faith within the duties of the employee's office or employment or of tasks lawfully assigned by a competent authority including the operation or use of an agency vehicle or equipment with actual or implied consent of the supervisor of the employee, but shall not include corruption or fraud;

14. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust created pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, or other instrumentality thereof;

15. "State active duty" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes;

16. "State military forces" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes;

17. "Title 32 active duty" shall be defined in accordance with Section 801 of Title 44 of the Oklahoma Statutes; and

18. "Tort" means a legal wrong, independent of contract, involving violation of a duty imposed by general law, statute, the Oklahoma Constitution, or otherwise, resulting in a loss to any person, association or corporation as the proximate result of an act

1 or omission of a political subdivision or the state or an employee  
2 acting within the scope of employment; provided, however, a tort  
3 shall not include a claim for inverse condemnation.

4 SECTION 2. AMENDATORY 51 O.S. 2021, Section 154, as  
5 amended by Section 2, Chapter 314, O.S.L. 2025 (51 O.S. Supp. 2025,  
6 Section 154), is amended to read as follows:

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

12 1. Seventy-five Thousand Dollars (\$75,000.00) for any claim or  
13 to any claimant who has more than one claim for loss of property  
14 arising out of a single act, accident, or occurrence;

15 2. a. Two Hundred Twenty-five Thousand Dollars (\$225,000.00)  
16 to any claimant for any number of claims for  
17 inconvenience, annoyance, or discomfort in nuisance  
18 claims arising out of a single act, accident, or  
19 occurrence in a county with a population of less than  
20 one hundred fifty thousand (150,000) according to the  
21 latest Federal Decennial Census, or

22 b. Two Hundred Seventy-five Thousand Dollars  
23 (\$275,000.00) to any claimant for any number of claims  
24 for inconvenience, annoyance, or discomfort in

nuisance claims arising out of a single act, accident, or occurrence in a county with a population of one hundred fifty thousand (150,000) or more according to the latest Federal Decennial Census;

3. a. In no event shall the total liability of the state and its political subdivisions for a claim for nuisance exceed Two Hundred Seventy-five Thousand Dollars (\$275,000.00) per occurrence.

b. In no event shall the total liability of the state and its political subdivisions for a claim arising from municipal sewer overflow exceed Two Hundred Seventy-five Thousand Dollars (\$275,000.00) per occurrence;

4. Except as otherwise provided in this paragraph, Two Hundred  
Eighty Thousand Dollars (\$250,000.00) to any claimant for a claim for  
other loss arising out of a single act, accident, or occurrence.

16 The limit of liability for the state or any city or county with a  
17 population of one hundred fifty thousand (150,000) or more according  
18 to the latest Federal Decennial Census, or a political subdivision  
19 as defined in subparagraph s of paragraph 12 of Section 152 of this  
20 title, shall not exceed Three Hundred Seventy-five Thousand Dollars  
21 (\$375,000.00). Except, however, the limits of liability for the  
22 University Hospitals and state mental health hospitals operated by  
23 the Department of Mental Health and Substance Abuse Services for  
24 claims arising from medical negligence shall be Three Hundred

1 Thousand Dollars (\$300,000.00). For claims arising from medical  
2 negligence by any licensed physician, osteopathic physician or  
3 Certified Nurse-Midwife rendering prenatal, delivery or infant care  
4 services from September 1, 1991, through June 30, 1996, pursuant to  
5 a contract authorized by subsection C of Section 1-106 of Title 63  
6 of the Oklahoma Statutes and in conformity with the requirements of  
7 Section 1-233 of Title 63 of the Oklahoma Statutes, the limits of  
8 liability shall be Two Hundred Thousand Dollars (\$200,000.00);

9       5. One Million Dollars (\$1,000,000.00) for any number of claims  
10 for indemnification pursuant to Section 162 of this title arising  
11 out of a single occurrence or accident; or

12       6. Two Million Dollars (\$2,000,000.00) in the aggregate for any  
13 number of claims arising out of a single occurrence or accident.

14       B. 1. Beginning on May 28, 2003, claims shall be allowed for  
15 wrongful criminal felony conviction resulting in imprisonment if the  
16 claimant has received a full pardon on the basis of a written  
17 finding by the Governor of actual innocence for the crime for which  
18 the claimant was sentenced or has been granted judicial relief  
19 absolving the claimant of guilt on the basis of actual innocence of  
20 the crime for which the claimant was sentenced. The Governor or the  
21 court shall specifically state, in the pardon or order, the evidence  
22 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. the individual was imprisoned solely on the basis of the conviction for the offense, and
- e. (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).

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

1       C. 1. No award for damages in an action or any claim against  
2 the state or a political subdivision shall include punitive or  
3 exemplary damages.

4       2. In an action or claim against the state or a political  
5 subdivision for damage to property, the court may award a prevailing  
6 plaintiff court costs and expenses including, but not limited to,  
7 reasonable attorney, appraisal, and engineering fees actually  
8 incurred.

9       D. When the amount awarded to or settled upon multiple  
10 claimants exceeds the limitations of this section, any party may  
11 apply to the district court which has jurisdiction of the cause to  
12 apportion to each claimant the claimant's proper share of the total  
13 amount as limited herein. The share apportioned to each claimant  
14 shall be in the proportion that the ratio of the award or settlement  
15 made to each claimant bears to the aggregate awards and settlements  
16 for all claims against the state or its political subdivisions  
17 arising out of the occurrence. When the amount of the aggregate  
18 losses presented by a single claimant exceeds the limits of  
19 paragraph 1, 2, 3, or 4 of subsection A of this section, each person  
20 suffering a loss shall be entitled to that person's proportionate  
21 share.

22       E. The total liability of resident physicians and interns while  
23 participating in a graduate medical education program of the  
24 University of Oklahoma College of Medicine, its affiliated

1 institutions and the Oklahoma State University College of  
2 Osteopathic Medicine shall not exceed One Hundred Fifty Thousand  
3 Dollars (\$150,000.00).

4 F. The total liability of a public trust hospital and physician  
5 for the acts of a physician who provides medical services on the  
6 premises of a public trust hospital, as provided by Section 152 of  
7 this title, that is located in a county with a population of fewer  
8 than seventy-five thousand (75,000) according to the latest Federal  
9 Decennial Census, but who is not employed by such hospital, shall  
10 not exceed One Million Dollars (\$1,000,000.00). If the physician is  
11 employed by another group or entity not under the sole or majority  
12 control of the physician, the total limit of liability of the  
13 physician and hospital shall be the higher coverage afforded by the  
14 liability policy, self-insurance, or assets of that group or entity.

15 G. For claims within the scope of The Governmental Tort Claims  
16 Act, the liability limits in this section for claims on or after the  
17 effective date of this act shall be adjusted beginning January 1,  
18 2031, and every five (5) years thereafter for inflation to reflect  
19 the lesser of the percentage change in the Consumer Price Index  
20 published by the Bureau of Labor Statistics of the United States  
21 Department of Labor for such period or four percent (4%) in any  
22 five-year period.

23 H. The state or a political subdivision may petition the court  
24 that all parties and actions arising out of a single accident or  
25

1 occurrence shall be joined as provided by law, and upon order of the  
2 court the proceedings upon good cause shown shall be continued for a  
3 reasonable time or until such joinder has been completed. The state  
4 or political subdivision shall be allowed to interplead in any  
5 action which may impose on it any duty or liability pursuant to The  
6 Governmental Tort Claims Act.

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

15 SECTION 3. This act shall become effective November 1, 2026.

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