

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3992

 By: Wright

7 AS INTRODUCED

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

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 51 O.S. 2011, Section 154, is
15 amended to read as follows:

16 Section 154. A. The total liability of the state and its
17 political subdivisions on claims within the scope of The
18 Governmental Tort Claims Act, arising out of an accident or
19 occurrence happening after the effective date of this act, Section
20 151 et seq. of this title, shall not exceed:

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

1 2. Except as otherwise provided in this paragraph, ~~One Hundred~~
2 ~~Twenty-five Thousand Dollars (\$125,000.00)~~ Two Hundred Thousand
3 Dollars (\$200,000.00) to any claimant for a claim for any other loss
4 arising out of a single act, accident, or occurrence. The limit of
5 liability for the state or any city or county with a population of
6 three hundred thousand (300,000) or more according to the latest
7 Federal Decennial Census shall not exceed ~~One Hundred Seventy-five~~
8 ~~Thousand Dollars (\$175,000.00)~~ Two Hundred Seventy-five Thousand
9 Dollars (\$275,000.00). Except however, the limits of said liability
10 for the University Hospitals and State Mental Health Hospitals
11 operated by the Department of Mental Health and Substance Abuse
12 Services for claims arising from medical negligence shall be ~~Two~~
13 ~~Hundred Thousand Dollars (\$200,000.00)~~ Three Hundred Thousand
14 Dollars (\$300,000.00). For claims arising from medical negligence
15 by any licensed physician, osteopathic physician or certified nurse-
16 midwife rendering prenatal, delivery or infant care services from
17 September 1, 1991, through June 30, 1996, pursuant to a contract
18 authorized by subsection B of Section 1-106 of Title 63 of the
19 Oklahoma Statutes and in conformity with the requirements of Section
20 1-233 of Title 63 of the Oklahoma Statutes, the limits of said
21 liability shall be ~~Two Hundred Thousand Dollars (\$200,000.00)~~ Three
22 Hundred Thousand Dollars (\$300,000.00); or

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 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)~~ 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 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 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 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, 2020.

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6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/06/2020 - DO
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