

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1758

By: Howard

AS INTRODUCED

An Act relating to The Governmental Tort Claims Act; amending 51 O.S. 2021, Section 156, which relates to presentation of claim; requiring certain information or documentation to support claim of certain loss; providing for invalidation of notice upon refusal to furnish certain information or documentation; and providing an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2021, Section 156, is amended to read as follows:

Section 156. A. Any person having a claim against the state or a political subdivision within the scope of Section 151 et seq. of this title shall present a claim to the state or political subdivision for any appropriate relief including the award of money damages.

B. Except as provided in subsection H of this section, and notwithstanding any other provision of law, claims against the state or a political subdivision are to be presented within one (1) year of the date the loss occurs. A claim against the state or a political

1 subdivision shall be forever barred unless notice thereof is
2 presented within one (1) year after the loss occurs.

3 C. A claim against the state shall be in writing and filed with
4 the Office of the Risk Management Administrator of the Office of
5 Management and Enterprise Services who shall immediately notify the
6 Attorney General and the agency concerned and conduct a diligent
7 investigation of the validity of the claim within the time specified
8 for approval or denial of claims by Section 157 of this title. A
9 claim may be filed by certified mail with return receipt requested.
10 A claim which is mailed shall be considered filed upon receipt by
11 the Office of the Risk Management Administrator.

12 D. A claim against a political subdivision shall be in writing
13 and filed with the office of the clerk of the governing body.

14 E. The written notice of claim to the state or a political
15 subdivision shall state the date, time, place and circumstances of
16 the claim, the identity of the state agency or agencies involved,
17 the amount of compensation or other relief demanded, the name,
18 address and telephone number of the claimant, the name, address and
19 telephone number of any agent authorized to settle the claim, and
20 any and all other information required to meet the reporting
21 requirements of the Medicare Secondary Payer Mandatory Reporting
22 Provisions in Section 111 of the Medicare, Medicaid and SCHIP
23 Extension Act of 2007 (MMSEA) through the Centers for Medicare &
24 Medicaid Services (CMS). Failure to state either the date, time,

1 place and circumstances and amount of compensation demanded, or any
2 information requested to comply with the reporting claims to CMS
3 under MMSEA shall not invalidate the notice unless the claimant
4 declines or refuses to furnish such information after demand by the
5 state or political subdivision. The time for giving written notice
6 of claim pursuant to the provisions of this section does not include
7 the time during which the person injured is unable due to
8 incapacitation from the injury to give such notice, not exceeding
9 ninety (90) days of incapacity.

10 F. If the written notice of claim demands relief for personal
11 injuries, the claimant shall provide the name and address of all
12 health care providers who treated the claimant since the date and
13 time of the circumstances claimant set forth in the notice of claim
14 required by subsection E of this section and the date of the notice
15 required by subsection E of this section. For each health care
16 provider required to be identified, the claimant shall provide a
17 HIPPA compliant authorization for release of health information.
18 Failure to provide the name and address of all health care providers
19 and the HIPPA compliant authorization required by this subsection
20 shall not invalidate the notice required by subsection E of this
21 section unless the claimant declines or refuses to furnish such
22 information after demanded by the state or political subdivision.

23 G. If the written notice of claim demands relief for loss of
24 earnings, the claimant shall provide the documentation of the loss

1 of earnings since the date and time of the circumstances claimant
2 set forth in the notice of claim required by subsection E of this
3 section and the date of the notice required by subsection E of this
4 section. Failure to provide the documentation required by this
5 subsection shall not invalidate the notice required by subsection E
6 of this section unless claimant declines or refuses to furnish such
7 information after demanded by the state or political subdivision.

8 H. If the written notice of claim demands relief for losses of
9 real or personal property, the claimant shall provide the amount of
10 the property loss claimed, the method used to calculate the amount
11 of loss, documentation relied upon in determining the amount of
12 loss, and proof of the claimant's ownership of property. Failure to
13 provide the documentation required by this subsection shall not
14 invalidate the notice required by subsection E of this section
15 unless claimant declines or refuses to furnish such information
16 after demanded by the state or political subdivision.

17 I. When the claim is one for death by wrongful act or omission,
18 notice may be presented by the personal representative within one
19 (1) year after the death occurs. If the person for whose death the
20 claim is made has presented notice that would have been sufficient
21 had he lived, an action for wrongful death may be brought without
22 any additional notice.

1 ~~G.~~ J. Claims and suits against resident physicians or interns
2 shall be made in accordance with the provisions of Titles 12 and 76
3 of the Oklahoma Statutes.

4 ~~H.~~ K. For purposes of claims based on wrongful felony
5 conviction resulting in imprisonment provided for in Section 154 of
6 this title, loss occurs on the date that the claimant receives a
7 pardon based on actual innocence from the Governor or the date that
8 the claimant receives judicial relief absolving the claimant of
9 guilt based on actual innocence; provided, for persons whose basis
10 for a claim occurred prior to the effective date of this act, the
11 claim must be submitted within one (1) year after the effective date
12 of this act.

13 SECTION 2. This act shall become effective November 1, 2022.

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