

1 3. "Charitable health care provider" means a person who is
2 licensed, certified, or otherwise authorized by the laws of this
3 state to administer health care in the ordinary course of business
4 or the practice of a profession and who provides care to a medically
5 indigent person, as defined in paragraph 9 of this section, with no
6 expectation of or acceptance of compensation of any kind;

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

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

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

23 b. the individual actually involved in the accident or
24 occurrence who suffers a loss, provided that the

1 individual shall aggregate in the claim the losses of
2 all other persons which are derivative of the loss, or
3 c. in the case of death, an administrator, special
4 administrator or a personal representative who shall
5 aggregate in the claim all losses of all persons which
6 are derivative of the death;

7 6. "Community health care provider" means:

8 a. a health care provider who volunteers services at a
9 community health center that has been deemed by the
10 U.S. Department of Health and Human Services as a
11 federally qualified health center as defined by 42
12 U.S.C., Section 1396d(1)(2)(B),

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

16 c. a health care provider who provides services to a
17 community health center that has made application to
18 the U.S. Department of Health and Human Services for
19 approval and deeming as a federally qualified look-
20 alike community health center in compliance with
21 federal application guidance, and has received
22 comments from the U.S. Department of Health and Human
23 Services as to the status of such application with the
24 established intent of resubmitting a modified

1 application, or, if denied, a new application, no
2 later than six (6) months from the date of the
3 official notification from the U.S. Department of
4 Health and Human Services requiring resubmission of a
5 new application;

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

10 a. Employee also includes:

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

18 (2) from September 1, 1991, through June 30, 1996,
19 licensed physicians, licensed osteopathic
20 physicians and certified nurse-midwives providing
21 prenatal, delivery or infant care services to
22 State Department of Health clients pursuant to a
23 contract entered into with the State Department
24 of Health in accordance with paragraph 3 of

1 subsection B of Section 1-106 of Title 63 of the
2 Oklahoma Statutes but only insofar as services
3 authorized by and in conformity with the terms of
4 the contract and the requirements of Section 1-
5 233 of Title 63 of the Oklahoma Statutes, and

6 (3) any volunteer, full-time or part-time firefighter
7 when performing duties for a fire department
8 provided for in subparagraph j of paragraph 11 of
9 this section.

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

14 (1) physicians acting in an administrative capacity,

15 (2) resident physicians and resident interns
16 participating in a graduate medical education

17 program of the University of Oklahoma Health

18 Sciences Center, the College of Osteopathic

19 Medicine of Oklahoma State University, or the

20 Department of Mental Health and Substance Abuse
21 Services,

22 (3) faculty members and staff of the University of
23 Oklahoma Health Sciences Center and the College
24

- 1 of Osteopathic Medicine of Oklahoma State
2 University, while engaged in teaching duties,
3 (4) physicians who practice medicine or act in an
4 administrative capacity as an employee of an
5 agency of the State of Oklahoma,
6 (5) physicians who provide medical care to inmates
7 pursuant to a contract with the Department of
8 Corrections,
9 (6) any person who is licensed to practice medicine
10 pursuant to Title 59 of the Oklahoma Statutes,
11 who is under an administrative professional
12 services contract with the Oklahoma Health Care
13 Authority under the auspices of the Oklahoma
14 Health Care Authority Chief Medical Officer, and
15 who is limited to performing administrative
16 duties such as professional guidance for medical
17 reviews, reimbursement rates, service
18 utilization, health care delivery and benefit
19 design for the Oklahoma Health Care Authority,
20 only while acting within the scope of such
21 contract,
22 (7) licensed medical professionals under contract
23 with city, county, or state entities who provide
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1 medical care to inmates or detainees in the
2 custody or control of law enforcement agencies,
3 (8) licensed mental health professionals as defined
4 in Sections 1-103 and 5-502 of Title 43A of the
5 Oklahoma Statutes, who are conducting initial
6 examinations of individuals for the purpose of
7 determining whether an individual meets the
8 criteria for emergency detention as part of a
9 contract with the Department of Mental Health and
10 Substance Abuse Services, and

11 (9) licensed mental health professionals as defined
12 in Sections 1-103 and 5-502 of Title 43A of the
13 Oklahoma Statutes, who are providing mental
14 health or substance abuse treatment services
15 under a professional services contract with the
16 Department of Mental Health and Substance Abuse
17 Services and are providing such treatment
18 services at a state-operated facility.

19 Physician faculty members and staff of the University
20 of Oklahoma Health Sciences Center and the College of
21 Osteopathic Medicine of Oklahoma State University not
22 acting in an administrative capacity or engaged in
23 teaching duties are not employees or agents of the
24 state.

1 c. Except as provided in subparagraph b of this
2 paragraph, in no event shall the state be held liable
3 for the tortious conduct of any physician, resident
4 physician or intern while practicing medicine or
5 providing medical treatment to patients;

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

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

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

15 11. "Political subdivision" means:

16 a. a municipality,

17 b. a school district, including, but not limited to, a
18 technology center school district established pursuant
19 to Section 4410, 4411, 4420 or 4420.1 of Title 70 of
20 the Oklahoma Statutes,

21 c. a county,

22 d. a public trust where the sole beneficiary or
23 beneficiaries are a city, town, school district or
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1 county. For purposes of The Governmental Tort Claims
2 Act, a public trust shall include:

3 (1) a municipal hospital created pursuant to Sections
4 30-101 through 30-109 of Title 11 of the Oklahoma
5 Statutes, a county hospital created pursuant to
6 Sections 781 through 796 of Title 19 of the
7 Oklahoma Statutes, or is created pursuant to a
8 joint agreement between such governing
9 authorities, that is operated for the public
10 benefit by a public trust created pursuant to
11 Sections 176 through 180.4 of Title 60 of the
12 Oklahoma Statutes and managed by a governing
13 board appointed or elected by the municipality,
14 county, or both, who exercises control of the
15 hospital, subject to the approval of the
16 governing body of the municipality, county, or
17 both,

18 (2) a public trust created pursuant to Sections 176
19 through 180.4 of Title 60 of the Oklahoma
20 Statutes after January 1, 2009, the primary
21 purpose of which is to own, manage, or operate a
22 public acute care hospital in this state that
23 serves as a teaching hospital for a medical
24 residency program provided by a college of

1 osteopathic medicine and provides care to
2 indigent persons, and

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

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

10 f. for the purposes of The Governmental Tort Claims Act
11 only, corporations organized not for profit pursuant
12 to the provisions of the Oklahoma General Corporation
13 Act for the primary purpose of developing and
14 providing rural water supply and sewage disposal
15 facilities to serve rural residents,

16 g. for the purposes of The Governmental Tort Claims Act
17 only, districts formed pursuant to the Rural Water,
18 Sewer, Gas and Solid Waste Management Districts Act,

19 h. for the purposes of The Governmental Tort Claims Act
20 only, master conservancy districts formed pursuant to
21 the Conservancy Act of Oklahoma,

22 i. for the purposes of The Governmental Tort Claims Act
23 only, a fire protection district created pursuant to
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1 the provisions of Section 901.1 et seq. of Title 19 of
2 the Oklahoma Statutes,

3 j. for the purposes of The Governmental Tort Claims Act
4 only, a benevolent or charitable corporate volunteer
5 or full-time fire department for an unincorporated
6 area created pursuant to the provisions of Section 592
7 et seq. of Title 18 of the Oklahoma Statutes,

8 k. for purposes of The Governmental Tort Claims Act only,
9 an Emergency Services Provider rendering services
10 within the boundaries of a Supplemental Emergency
11 Services District pursuant to an existing contract
12 between the Emergency Services Provider and the State
13 Department of Health. Provided, however, that the
14 acquisition of commercial liability insurance covering
15 the activities of such Emergency Services Provider
16 performed within the State of Oklahoma shall not
17 operate as a waiver of any of the limitations,
18 immunities or defenses provided for political
19 subdivisions pursuant to the terms of The Governmental
20 Tort Claims Act,

21 l. for purposes of The Governmental Tort Claims Act only,
22 a conservation district created pursuant to the
23 provisions of the Conservation District Act,

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- 1 m. for purposes of The Governmental Tort Claims Act only,
2 districts formed pursuant to the Oklahoma Irrigation
3 District Act,
- 4 n. for purposes of The Governmental Tort Claims Act only,
5 any community action agency established pursuant to
6 Sections 5035 through 5040 of Title 74 of the Oklahoma
7 Statutes,
- 8 o. for purposes of The Governmental Tort Claims Act only,
9 any organization that is designated as a youth
10 services agency, pursuant to Section 2-7-306 of Title
11 10A of the Oklahoma Statutes,
- 12 p. for purposes of The Governmental Tort Claims Act only,
13 any judge presiding over a drug court, as defined by
14 Section 471.1 of Title 22 of the Oklahoma Statutes,
- 15 q. for purposes of The Governmental Tort Claims Act only,
16 any child-placing agency licensed by this state to
17 place children in foster family homes, ~~and~~
- 18 r. for purposes of The Governmental Tort Claims Act only,
19 a circuit engineering district created pursuant to
20 Section 687.1 of Title 69 of the Oklahoma Statutes,
21 and
- 22 s. for purposes of The Governmental Tort Claims Act only,
23 a substate planning district, regional council of
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1 government or other entity created pursuant to Section
2 1001 et seq. of Title 74 of the Oklahoma Statutes,
3 and all their institutions, instrumentalities or agencies;

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

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

15 14. "Tort" means a legal wrong, independent of contract,
16 involving violation of a duty imposed by general law, statute, the
17 Constitution of the State of Oklahoma, or otherwise, resulting in a
18 loss to any person, association or corporation as the proximate
19 result of an act or omission of a political subdivision or the state
20 or an employee acting within the scope of employment.

21 SECTION 2. This act shall become effective November 1, 2021.

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
24 03/31/2021 - DO PASS.