

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 373

By: Garvin

AS INTRODUCED

An Act relating to The Governmental Tort Claims Act; amending 51 O.S. 2021, Section 154, which relates to extent of liability; allowing liability for certain nuisance claims; establishing limitation on liability for certain nuisance claims; updating statutory language; and providing an effective date.

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

SECTION 1. 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 or nuisance 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

1 claim for any other loss arising out of a single act, accident, or
2 occurrence. The limit of liability for the state or any city or
3 county with a population of three hundred thousand (300,000) or more
4 according to the latest Federal Decennial Census, or a political
5 subdivision as defined in subparagraph s of paragraph 11 of Section
6 152 of this title, shall not exceed One Hundred Seventy-five
7 Thousand Dollars (\$175,000.00). Except however, r:

8 a. the ~~limits~~ limit of ~~the~~ liability for the University
9 Hospitals and State Mental Health Hospitals operated
10 by the Department of Mental Health and Substance Abuse
11 Services for claims arising from medical negligence
12 shall be Two Hundred Thousand Dollars (\$200,000.00) ~~-~~

13 ~~For,~~

14 b. for claims arising from medical negligence by any
15 licensed physician, osteopathic physician or certified
16 nurse-midwife rendering prenatal, delivery or infant
17 care services from September 1, 1991, through June 30,
18 1996, pursuant to a contract authorized by subsection
19 B of Section 1-106 of Title 63 of the Oklahoma
20 Statutes and in conformity with the requirements of
21 Section 1-233 of Title 63 of the Oklahoma Statutes,
22 the ~~limits~~ limit of ~~the~~ liability shall be Two Hundred
23 Thousand Dollars (\$200,000.00), and

1 c. for nuisance claims arising from sewer backflow
2 floods, sewer backups, wastewater floods, or other
3 sewer or water main breaks, the limit of liability
4 shall be Fifty Thousand Dollars (\$50,000.00), or if
5 the claimant alleges actual physical injury resulting
6 from such events, the limit of liability shall be
7 twice the documented medical expenses up to the limit
8 provided in this subparagraph; or

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

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

20 2. As used in paragraph 1 of this subsection, for a claimant to
21 recover based on "actual innocence", the individual must meet the
22 following criteria:
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- 1 a. the individual was charged, by indictment or
2 information, with the commission of a public offense
3 classified as a felony,
4 b. the individual did not plead guilty to the offense
5 charged, or to any lesser included offense, but was
6 convicted of the offense,
7 c. the individual was sentenced to incarceration for a
8 term of imprisonment as a result of the conviction,
9 d. the individual was imprisoned solely on the basis of
10 the conviction for the offense, and
11 e. (1) in the case of a pardon, a determination was made
12 by either the Pardon and Parole Board or the
13 Governor that the offense for which the
14 individual was convicted, sentenced and
15 imprisoned, including any lesser offenses, was
16 not committed by the individual, or
17 (2) in the case of judicial relief, a court of
18 competent jurisdiction found by clear and
19 convincing evidence that the offense for which
20 the individual was convicted, sentenced and
21 imprisoned, including any lesser included
22 offenses, was not committed by the individual and
23 issued an order vacating, dismissing or reversing
24 the conviction and sentence and providing that no

1 further proceedings can be or will be held
2 against the individual on any facts and
3 circumstances alleged in the proceedings which
4 had resulted in the conviction.

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

9 4. The total liability of the state and its political
10 subdivisions on any claim within the scope of The Governmental Tort
11 Claims Act arising out of wrongful criminal felony conviction
12 resulting in imprisonment shall not exceed One Hundred Seventy-five
13 Thousand Dollars (\$175,000.00).

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

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

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

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

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

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

9 SECTION 2. This act shall become effective November 1, 2023.

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