

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1638

By: Sneed

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5
6 AS INTRODUCED

7 An Act relating to The Governmental Tort Claims Act;
8 amending 51 O.S. 2021, Section 152, as last amended
9 by Section 111, Chapter 452, O.S.L. 2024 (51 O.S.
10 Supp. 2024, Section 152), which relates to
11 definitions; modifying a definition; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 51 O.S. 2021, Section 152, as last
15 amended by Section 111, Chapter 452, O.S.L. 2024 (51 O.S. Supp.
16 2024, Section 152), is amended to read as follows:

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

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

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

23 3. "Charitable health care provider" means a person who is
24 licensed, certified, or otherwise authorized by the laws of this
state to administer health care in the ordinary course of business

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

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

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

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

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

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

5 6. "Community health care provider" means:

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

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

14 c. a health care provider who provides services to a
15 community health center that has made application to
16 the U.S. Department of Health and Human Services for
17 approval and deeming as a federally qualified look-
18 alike community health center in compliance with
19 federal application guidance, and has received
20 comments from the U.S. Department of Health and Human
21 Services as to the status of such application with the
22 established intent of resubmitting a modified
23 application, or, if denied, a new application, no
24 later than six (6) months from the date of the

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~~ on
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, and

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

1 ~~insofar as services authorized by and in~~
2 ~~conformity with the terms of the contract and the~~
3 ~~requirements of Section 1-233 of Title 63 of the~~
4 ~~Oklahoma Statutes, and~~

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

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

13 (1) physicians acting in an administrative capacity,

14 (2) resident physicians and resident interns
15 participating in a graduate medical education
16 program of the University of Oklahoma Health
17 Sciences Center, the College of Osteopathic
18 Medicine of Oklahoma State University, or the
19 Department of Mental Health and Substance Abuse
20 Services,

21 (3) faculty members and staff of the University of
22 Oklahoma Health Sciences Center and the College
23 of Osteopathic Medicine of Oklahoma State
24 University, while engaged in teaching duties,

1 (4) physicians who practice medicine or act in an
2 administrative capacity as an employee of an
3 agency of the State of Oklahoma,

4 (5) physicians who provide medical care to inmates
5 pursuant to a contract with the Department of
6 Corrections,

7 (6) any person who is licensed to practice medicine
8 pursuant to Title 59 of the Oklahoma Statutes,
9 who is under an administrative professional
10 services contract with the Oklahoma Health Care
11 Authority under the auspices of the Oklahoma
12 Health Care Authority Chief Medical Officer, and
13 who is limited to performing administrative
14 duties such as professional guidance for medical
15 reviews, reimbursement rates, service
16 utilization, health care delivery, and benefit
17 design for the Oklahoma Health Care Authority,
18 only while acting within the scope of such
19 contract,

20 (7) licensed medical professionals under contract
21 with city, county, or state entities who provide
22 medical care to inmates or detainees in the
23 custody or control of law enforcement agencies,
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1 (8) licensed mental health professionals as defined
2 in Sections 1-103 and 5-502 of Title 43A of the
3 Oklahoma Statutes, who are conducting initial
4 examinations of individuals for the purpose of
5 determining whether an individual meets the
6 criteria for emergency detention as part of a
7 contract with the Department of Mental Health and
8 Substance Abuse Services, and

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

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

23 c. For the purposes of The Governmental Tort Claims Act,
24 employee shall include independent contractors and

1 employees of independent contractors while actively
2 engaged in the transport of individuals in need of
3 initial assessment, emergency detention, or protective
4 custody as authorized by Section 1-110 of Title 43A of
5 the Oklahoma Statutes.

6 d. Except as provided in subparagraph b of this
7 paragraph, in no event shall the state be held liable
8 for the tortious conduct of any physician, resident
9 physician, or intern while practicing medicine or
10 providing medical treatment to patients.

11 e. For purposes of The Governmental Tort Claims Act,
12 members of the state military forces on state active
13 duty orders or on Title 32 active duty orders are
14 employees of this state, regardless of the place,
15 within or outside this state, where their duties as
16 employees are performed;

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

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

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

3 11. "Political subdivision" means:

4 a. a municipality,

5 b. a school district, including, but not limited to, a
6 technology center school district, established
7 pursuant to Section 4410, 4411, 4420, or 4420.1 of
8 Title 70 of the Oklahoma Statutes,

9 c. a county,

10 d. a public trust where the sole beneficiary or
11 beneficiaries are a city, town, school district, or
12 county. For purposes of The Governmental Tort Claims
13 Act, a public trust shall include:

14 (1) a municipal hospital created pursuant to Sections
15 30-101 through 30-109 of Title 11 of the Oklahoma
16 Statutes, a county hospital created pursuant to
17 Sections 781 through 796 of Title 19 of the
18 Oklahoma Statutes, or is created pursuant to a
19 joint agreement between such governing
20 authorities, that is operated for the public
21 benefit by a public trust created pursuant to
22 Sections 176 through 180.4 of Title 60 of the
23 Oklahoma Statutes and managed by a governing
24 board appointed or elected by the municipality,

1 county, or both, who exercises control of the
2 hospital, subject to the approval of the
3 governing body of the municipality, county, or
4 both,

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

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

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

21 f. for the purposes of The Governmental Tort Claims Act
22 only, corporations organized not_for_profit pursuant
23 to the provisions of the Oklahoma General Corporation
24 Act for the primary purpose of developing and

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

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

6 h. for the purposes of The Governmental Tort Claims Act
7 only, master conservancy districts formed pursuant to
8 the Conservancy Act of Oklahoma,

9 i. for the purposes of The Governmental Tort Claims Act
10 only, a fire protection district created pursuant to
11 the provisions of Section 901.1 et seq. of Title 19 of
12 the Oklahoma Statutes,

13 j. for the purposes of The Governmental Tort Claims Act
14 only, a benevolent or charitable corporate volunteer
15 or full-time fire department for an unincorporated
16 area created pursuant to the provisions of Section 592
17 et seq. of Title 18 of the Oklahoma Statutes,

18 k. for purposes of The Governmental Tort Claims Act only,
19 an Emergency Services Provider rendering services
20 within the boundaries of a Supplemental Emergency
21 Services District pursuant to an existing contract
22 between the Emergency Services Provider and the State
23 Department of Health. Provided, however, that the
24 acquisition of commercial liability insurance covering

1 the activities of such Emergency Services Provider
2 performed within this state shall not operate as a
3 waiver of any of the limitations, immunities, or
4 defenses provided for political subdivisions pursuant
5 to the terms of The Governmental Tort Claims Act,

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

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

12 n. for purposes of The Governmental Tort Claims Act only,
13 any community action agency established pursuant to
14 Sections 5035 through 5040 of Title 74 of the Oklahoma
15 Statutes,

16 o. for purposes of The Governmental Tort Claims Act only,
17 any organization that is designated as a youth
18 services agency, pursuant to Section 2-7-306 of Title
19 10A of the Oklahoma Statutes,

20 p. for purposes of The Governmental Tort Claims Act only,
21 any judge presiding over a drug court, as defined by
22 Section 471.1 of Title 22 of the Oklahoma Statutes,
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- 1 q. for purposes of The Governmental Tort Claims Act only,
2 any child-placing agency licensed by this state to
3 place children in foster family homes,
- 4 r. for purposes of The Governmental Tort Claims Act only,
5 a circuit engineering district created pursuant to
6 Section 687.1 of Title 69 of the Oklahoma Statutes,
- 7 s. for purposes of ~~the~~ The Governmental Tort Claims Act
8 only, a substate planning district, regional council
9 of government, or other entity created pursuant to
10 Section 1001 et seq. of Title 74 of the Oklahoma
11 Statutes, ~~and~~
- 12 t. for purposes of The Governmental Tort Claims Act only,
13 a regional transportation authority or regional
14 economic development authority created pursuant to
15 Section 1370.7 of Title 68 of the Oklahoma Statutes
16 including its contract operator and any railroad
17 operating in interstate commerce that sells a property
18 interest or provides services to a regional
19 transportation authority or allows the authority to
20 use the property or tracks of the railroad for the
21 provision of public passenger rail service to the
22 extent claims against the contract operator or
23 railroad arise out of or are related to or in
24 connection with such property interest, services, or

1 operation of the public passenger rail service.
2 Provided, the acquisition of commercial liability
3 insurance to cover the activities of the ~~regional~~
4 transportation authority, or regional economic
5 development authority contract operator, or railroad
6 shall not operate as a waiver of any liabilities,
7 immunities, or defenses provided pursuant to the
8 provisions of ~~the~~ The Governmental Tort Claims Act,
9 and

10 u. for purposes of The Governmental Tort Claims Act only,
11 an ambulance service district established pursuant to
12 Section 9C of Article X of the Oklahoma Constitution,

13 and all their institutions, instrumentalities, or agencies;

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

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

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

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

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

7 17. "Tort" means a legal wrong, independent of contract,
8 involving violation of a duty imposed by general law, statute, the
9 Constitution of the State of Oklahoma, or otherwise, resulting in a
10 loss to any person, association, or corporation as the proximate
11 result of an act or omission of a political subdivision or the state
12 or an employee acting within the scope of employment; provided,
13 however, a tort shall not include a claim for inverse condemnation.

14 SECTION 2. This act shall become effective November 1, 2025.

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