

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 2235

By: Munson

AS INTRODUCED

An Act relating to wrongful convictions; amending 22 O.S. 2021, Section 19, as last amended by Section 2, Chapter 259, O.S.L. 2024 (22 O.S. Supp. 2024, Section 19), which relates to procedures for filing expungement requests; authorizing expungement hearings within certain period of time; establishing notice requirement; amending 51 O.S. Section 154, which relates to The Governmental Tort Claims Act; modifying scope of certain definition; increasing liability amount for claims of wrongful incarceration; providing for supplemental compensation under certain circumstances; providing guidelines for payments of awards; allowing claimants to obtain group health benefit plan coverage through the Department of Corrections; providing limitations; requiring payment of monthly contribution for coverage; modifying effective dates for certain claims; directing the Department of Corrections to provide certain notice to wrongfully imprisoned persons; providing for the waiver of resident and nonresident tuition, room and board, and mandatory fees for wrongfully incarcerated persons and their children; providing limitation for credit hours; defining term; providing for codification; providing an effective date; and declaring an emergency.

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

2 SECTION 1. AMENDATORY 22 O.S. 2021, Section 19, as last
3 amended by Section 2, Chapter 259, O.S.L. 2024 (22 O.S. Supp. 2024,
4 Section 19), is amended to read as follows:

5 Section 19. A. Any person qualified under Section 18 of this
6 title may petition the district court of the district in which the
7 arrest information pertaining to the person is located for the
8 sealing of all or any part of the record, except basic
9 identification information.

10 B. The process for the automatic expungement of a clean slate
11 eligible arrest record as defined in subsection C of Section 18 of
12 this title is as follows:

13 1. On a monthly basis, the Oklahoma State Bureau of
14 Investigation shall identify arrest records which are clean slate
15 eligible by conducting a search of the criminal history repository
16 records of the Bureau;

17 2. The Bureau shall, on a monthly basis, provide a list of
18 clean slate eligible arrest records to the prosecuting agency and
19 the arresting agency;

20 3. The prosecuting agency, arresting agency, and the Bureau
21 may, no later than forty-five (45) days from the day on which the
22 notice described in paragraph 2 of this subsection is transmitted,
23 object to an automatic expungement and such objection shall be
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1 transmitted to all parties. An objection may be made for any of the
2 following reasons:

- 3 a. after reviewing the agency record, the agency believes
4 the arrest record does not meet the definition of a
5 clean slate eligible arrest record,
- 6 b. the individual has not paid court-ordered restitution
7 to the victim, or
- 8 c. the agency has a reasonable belief, grounded in
9 supporting facts, that an individual with a clean
10 slate eligible arrest record is continuing to engage
11 in criminal activity, whether charged or not charged,
12 within or outside the state;

13 4. If an agency identified in paragraph 3 of this subsection
14 objects for a reason described in paragraph 3 of this subsection
15 within forty-five (45) days of the day on which the notice described
16 in paragraph 2 of this subsection is transmitted, the record shall
17 not be expunged. Once a year, the Bureau shall electronically
18 submit a report to the Legislature with a list of all cases where a
19 record was not expunged pursuant to this paragraph; and

20 5. After forty-five (45) days pass from the day on which the
21 notice described in paragraph 2 of this subsection is sent, the
22 Bureau shall provide to the courts a list of all cases where
23 responses from all parties were received and no parties objected.
24 The court shall review this list and provide to all agencies that

1 have criminal history records a signed expungement order for all
2 cases approved. Upon receipt of a signed expungement order, each
3 agency shall seal the relevant records.

4 The Bureau and the Supreme Court may promulgate rules to govern
5 the process for automatic expungement of records for a clean slate
6 eligible arrest record in accordance with this subsection.

7 C. 1. Nothing in this section precludes an individual from
8 filing a petition for expungement of records that are eligible for
9 automatic expungement under subsection C of Section 18 of this title
10 if an automatic expungement has not occurred pursuant to subsection
11 B of this section.

12 2. An individual does not have a cause of action for damages as
13 a result of the failure of the Bureau to identify an arrest record
14 as eligible for automatic expungement.

15 D. An automatic expungement granted under subsection B of this
16 section does not preclude an individual from requesting the
17 unsealing of records in accordance with subsection P of this
18 section.

19 E. Upon the filing of a petition or entering of a court order
20 as prescribed in subsection A of this section, the court shall set a
21 date for a hearing and shall provide thirty (30) days of notice of
22 the hearing to the prosecuting agency, the arresting agency, the
23 Oklahoma State Bureau of Investigation, and any other person or
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1 agency whom the court has reason to believe may have relevant
2 information related to the sealing of such record.

3 F. If a petitioner requests expungement for multiple offenses
4 in one county, each of which would qualify for expungement if
5 processed sequentially, the expungements may be considered under a
6 single petition. The petitioner shall not be required to submit
7 multiple petitions to accomplish the sequential sealing of multiple
8 offenses in a single county.

9 G. Upon a finding that the harm to privacy of the person in
10 interest or dangers of unwarranted adverse consequences outweigh the
11 public interest in retaining the records, the court may order such
12 records, or any part thereof except basic identification
13 information, to be sealed. If the court finds that neither sealing
14 of the records nor maintaining of the records unsealed by the agency
15 would serve the ends of justice, the court may enter an appropriate
16 order limiting access to such records.

17 Any order entered under this subsection shall specify those
18 agencies to which such order shall apply. Any order entered
19 pursuant to this subsection may be appealed by the petitioner, the
20 prosecuting agency, the arresting agency, or the Oklahoma State
21 Bureau of Investigation to the Supreme Court in accordance with the
22 rules of the Supreme Court. In all such appeals, the Oklahoma State
23 Bureau of Investigation is a necessary party and must be given
24 notice of the appellate proceedings.

1 H. Upon the entry of an order to seal the records, or any part
2 thereof, or upon an automatic expungement described in subsection B
3 of this section, the subject official actions shall be deemed never
4 to have occurred, and the person in interest and all criminal
5 justice agencies may properly reply, upon any inquiry in the matter,
6 that no such action ever occurred and that no such record exists
7 with respect to such person.

8 I. Inspection of the records included in the order may
9 thereafter be permitted by the court only upon petition by the
10 person in interest who is the subject of such records, the Attorney
11 General, or by the prosecuting agency and only to those persons and
12 for such purposes named in such petition.

13 J. Employers, educational institutions, state and local
14 government agencies, officials, and employees shall not, in any
15 application or interview or otherwise, require an applicant to
16 disclose any information contained in sealed records. An applicant
17 need not, in answer to any question concerning arrest and criminal
18 records, provide information that has been sealed, including any
19 reference to or information concerning such sealed information and
20 may state that no such action has ever occurred. Such an
21 application may not be denied solely because of the refusal of the
22 applicant to disclose arrest and criminal records information that
23 has been sealed.

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1 K. All arrest and criminal records information existing prior
2 to May 14, 1987, except basic identification information, is also
3 subject to sealing in accordance with subsection G of this section.

4 L. Nothing in this section shall be construed to authorize the
5 physical destruction of any criminal justice records.

6 M. For the purposes of this section, sealed materials which are
7 recorded in the same document as unsealed material may be recorded
8 in a separate document, and sealed, then obliterated in the original
9 document.

10 N. For the purposes of this section, district court index
11 reference of sealed material shall be destroyed, removed or
12 obliterated.

13 O. Any record ordered to be sealed pursuant to this section, if
14 not unsealed within ten (10) years of the expungement order, may be
15 obliterated or destroyed at the end of the ten-year period.

16 P. Subsequent to records being sealed as provided herein, the
17 prosecuting agency, the arresting agency, the Oklahoma State Bureau
18 of Investigation, or other interested person or agency may petition
19 the court for an order unsealing such records. Upon filing of a
20 petition, the court shall set a date for hearing, which hearing may
21 be closed at the discretion of the court, and shall provide thirty
22 (30) days of notice to all interested parties. If, upon hearing,
23 the court determines there has been a change of conditions or that
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1 there is a compelling reason to unseal the records, the court may
2 order all or a portion of the records unsealed.

3 Q. Nothing herein shall prohibit the introduction of evidence
4 regarding actions sealed pursuant to the provisions of this section
5 at any hearing or trial for purposes of impeaching the credibility
6 of a witness or as evidence of character testimony pursuant to
7 Section 2608 of Title 12 of the Oklahoma Statutes.

8 R. If a person qualifies for an expungement under the
9 provisions of paragraph 3 of subsection A of Section 18 of this
10 title and the petition for expungement is granted by the court, the
11 court shall order the reimbursement of all filing fees and court
12 costs incurred by the petitioner as a result of filing the
13 expungement request.

14 S. If a person qualifies for an expungement under the
15 provisions of paragraph 3 or 4 of subsection A of Section 18 of this
16 title, the person may request a hearing be set within thirty (30)
17 days after the date of filing the petition for expungement. The
18 court shall grant the request for the hearing and shall provide a
19 notice of no less than ten (10) days for said hearing to the
20 prosecuting agency, the arresting agency, the Oklahoma State Bureau
21 of Investigation, and any other person or agency whom the court has
22 reason to believe may have relevant information related to the
23 sealing of such record. Any order entered pursuant to the

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1 provisions of this subsection shall be subject to the provisions of
2 subsections F through P of this section.

3 T. Any offense that has been expunged shall not be treated as a
4 prior offense in determining whether another offense qualifies for
5 an expungement under Section 18 of this title.

6 SECTION 2. AMENDATORY 51 O.S. 2021, Section 154, is
7 amended to read as follows:

8 Section 154. A. The total liability of the state and its
9 political subdivisions on claims within the scope of The
10 Governmental Tort Claims Act, arising out of an accident or
11 occurrence happening after October 1, 1985, Section 151 et seq. of
12 this title, shall not exceed:

13 1. Twenty-five Thousand Dollars (\$25,000.00) for any claim or
14 to any claimant who has more than one claim for loss of property
15 arising out of a single act, accident, or occurrence;

16 2. Except as otherwise provided in this paragraph, One Hundred
17 Twenty-five Thousand Dollars (\$125,000.00) to any claimant for a
18 claim for any other loss arising out of a single act, accident, or
19 occurrence. The limit of liability for the state or any city or
20 county with a population of three hundred thousand (300,000) or more
21 according to the latest Federal Decennial Census, or a political
22 subdivision as defined in subparagraph s of paragraph 11 of Section
23 152 of this title, shall not exceed One Hundred Seventy-five
24 Thousand Dollars (\$175,000.00). Except however, the limits of the

1 liability for the University Hospitals and State Mental Health
2 Hospitals operated by the Department of Mental Health and Substance
3 Abuse Services for claims arising from medical negligence shall be
4 Two Hundred Thousand Dollars (\$200,000.00). For claims arising from
5 medical negligence by any licensed physician, osteopathic physician
6 or certified nurse-midwife rendering prenatal, delivery or infant
7 care services from September 1, 1991, through June 30, 1996,
8 pursuant to a contract authorized by subsection B of Section 1-106
9 of Title 63 of the Oklahoma Statutes and in conformity with the
10 requirements of Section 1-233 of Title 63 of the Oklahoma Statutes,
11 the limits of the liability shall be Two Hundred Thousand Dollars
12 (\$200,000.00); or

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

15 B. 1. Beginning on ~~May 28, 2003~~ July 1, 2025, claims shall be
16 allowed for wrongful criminal felony conviction resulting in
17 imprisonment if the claimant has received a full pardon on the basis
18 of a written finding by the Governor of actual innocence for the
19 crime for which the claimant was sentenced or has been granted
20 judicial relief absolving the claimant of guilt on the basis of
21 actual innocence of the crime for which the claimant was sentenced.
22 The Governor or the court shall specifically state, in the pardon or
23 order, the evidence or basis on which the finding of actual
24 innocence is based.

1 2. As used in paragraph 1 of this subsection, for a claimant to
2 recover based on "actual innocence", the individual must meet the
3 following criteria:

4 a. the individual was charged, by indictment or
5 information, with the commission of a public offense
6 classified as a felony,

7 ~~b. the individual did not plead guilty to the offense~~
8 ~~charged, or to any lesser included offense, but was~~
9 ~~convicted of the offense,~~

10 ~~c.~~ the individual was sentenced to incarceration for a
11 term of imprisonment as a result of the conviction,

12 ~~d.~~

13 c. the individual was imprisoned solely on the basis of
14 the conviction for the offense, and

15 ~~e.~~

16 d. (1) in the case of a pardon, a determination was made
17 by either the Pardon and Parole Board or the
18 Governor that the offense for which the
19 individual was convicted, sentenced and
20 imprisoned, including any lesser offenses, was
21 not committed by the individual, or

22 (2) in the case of judicial relief, a court of
23 competent jurisdiction found by clear and
24 convincing evidence that the offense for which

1 the individual was convicted, sentenced and
2 imprisoned, including any lesser included
3 offenses, was not committed by the individual and
4 issued an order vacating, dismissing or reversing
5 the conviction and sentence and providing that no
6 further proceedings can be or will be held
7 against the individual on any facts and
8 circumstances alleged in the proceedings which
9 had resulted in the conviction.

10 3. A claimant shall not be entitled to compensation for any
11 part of a sentence in prison during which the claimant was also
12 serving a concurrent sentence for a crime not covered by this
13 subsection.

14 4. The total liability of the state and its political
15 subdivisions on any claim within the scope of The Governmental Tort
16 Claims Act arising out of wrongful criminal felony conviction
17 resulting in imprisonment shall ~~not exceed One Hundred Seventy-five~~
18 ~~Thousand Dollars (\$175,000.00)~~ be in an amount equal to Fifty
19 Thousand Dollars (\$50,000.00) multiplied by the number of years
20 served in prison, expressed as a fraction to reflect partial years.

21 5. In addition to the award of damages provided for in
22 paragraph 4 of this subsection, a claimant who served his or her
23 time on death row shall be entitled to receive supplemental
24 compensation in the amount of Fifty Thousand Dollars (\$50,000.00)

1 multiplied by the number of years the person served on death row,
2 expressed as a fraction to reflect partial years.

3 6. In addition to the award of damages provided for in
4 paragraph 4 of this subsection, a claimant who was released on
5 parole or released under conditions of probation shall be entitled
6 to receive supplemental compensation in the amount of Twenty-five
7 Thousand Dollars (\$25,000.00) multiplied by the number of years the
8 person was on parole or under probation, expressed as a fraction to
9 reflect partial years.

10 7. A claimant entitled to compensation under the provisions of
11 this subsection shall be entitled to an award of damages under this
12 subsection of One Million Dollars (\$1,000,000.00) or less shall be
13 paid to the claimant in a lump sum. If an award of damages under
14 this subsection exceeds One Million Dollars (\$1,000,000.00), then
15 One Million Dollars (\$1,000,000.00) of the award shall be paid to
16 the claimant in a lump sum and the remainder shall be paid annually
17 in equal payments over a period of three (3) years.

18 8. A claimant entitled to compensation under the provisions of
19 this subsection shall be eligible to obtain group health benefit
20 plan coverage through the Department of Corrections as if the person
21 were an employee of the Department. The provisions of this
22 paragraph shall not entitle the spouse or other dependent or family
23 member to group health benefit plan coverage. Coverage may be
24 obtained under the provisions of this paragraph for a period of time

1 equal to the total period the claimant served for the crime for
2 which the claimant was wrongfully incarcerated, including any period
3 during which the claimant was released on parole or released under
4 conditions of probation. A claimant who elects to obtain coverage
5 under the provisions of this paragraph shall pay a monthly
6 contribution equal to the total amount of the monthly contribution
7 for that coverage that an employee of the Department would pay.

8 9. The provisions of this subsection shall apply to convictions
9 occurring on ~~or before May 28, 2003, as well as convictions~~
10 ~~occurring and after May 28, 2003~~ July 1, 2025. ~~If a court of~~
11 ~~competent jurisdiction finds that retroactive application of this~~
12 ~~subsection is unconstitutional, the prospective application of this~~
13 ~~subsection shall remain valid.~~

14 C. No award for damages in an action or any claim against the
15 state or a political subdivision shall include punitive or exemplary
16 damages.

17 D. When the amount awarded to or settled upon multiple
18 claimants exceeds the limitations of this section, any party may
19 apply to the district court which has jurisdiction of the cause to
20 apportion to each claimant the claimant's proper share of the total
21 amount as limited herein. The share apportioned to each claimant
22 shall be in the proportion that the ratio of the award or settlement
23 made to him bears to the aggregate awards and settlements for all
24 claims against the state or its political subdivisions arising out

1 of the occurrence. When the amount of the aggregate losses
2 presented by a single claimant exceeds the limits of paragraph 1 or
3 2 of subsection A of this section, each person suffering a loss
4 shall be entitled to that person's proportionate 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 College of Osteopathic Medicine and
9 Surgery shall not exceed One Hundred Thousand Dollars (\$100,000.00).

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

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

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 360.2 of Title 57, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Department of Corrections shall provide to each
7 wrongfully imprisoned person information, both orally and in
8 writing, that includes:

9 1. Guidance on how to obtain compensation pursuant to
10 subsection B of Section 154 of Title 51 of the Oklahoma Statutes;
11 and

12 2. A list of and contact information for nonprofit advocacy
13 groups, identified by the Department, that assist wrongfully
14 imprisoned persons in filing claims for compensation under The
15 Governmental Tort Claims Act.

16 B. The Department shall provide the information:

17 1. At the time of the release of the wrongfully imprisoned
18 person from a penal institution; or

19 2. As soon as practicable after the Department has reason to
20 believe that the person is entitled to compensation.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3218.7-2 of Title 70, unless
23 there is created a duplication in numbering, reads as follows:

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1 A. Within The Oklahoma State System of Higher Education or the
2 system of career technology districts, no resident tuition,
3 nonresident tuition, room and board, and any mandatory fees
4 associated with such attendance shall be charged to:

5 1. A person who was wrongfully incarcerated and awarded
6 compensation pursuant to the provisions of subsection B of Section 2
7 of this act; and

8 2. Children of any person wrongfully incarcerated and the
9 person was awarded compensation pursuant to the provisions of
10 subsection B of Section 2 of this act.

11 B. Such waiver of resident tuition, nonresident tuition, room
12 and board, and mandatory fees associated with such attendance shall
13 be limited to one hundred twenty (120) credit hours.

14 C. As used in this section, the term "children" includes
15 children by birth and by adoption.

16 SECTION 5. This act shall become effective July 1, 2025.

17 SECTION 6. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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