

## C

Oklahoma Statutes Annotated [Currentness](#)

Title 51. Officers ([Refs & Annos](#))

▢ [Chapter 5](#). Governmental Tort Claims Act ([Refs & Annos](#))

→ **§ 154. Extent of liability--Wrongful criminal felony convictions resulting in imprisonment--Punitive or exemplary damages--Joinder of parties--Several liability**

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 the effective date of this act, [\[FN1\]](#) [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 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 claim for any other loss arising out of a single act, accident, or occurrence. The limit of liability for the state or any city or county with a population of three hundred thousand (300,000) or more according to the latest federal Decennial Census shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00). Except however, the limits of said liability for the University Hospitals and State Mental Health Hospitals operated by the Department of Mental Health and Substance Abuse Services for claims arising from medical negligence shall be Two Hundred Thousand Dollars (\$200,000.00). For claims arising from medical negligence by any licensed physician, osteopathic physician or certified nurse-midwife rendering prenatal, delivery or infant care services from September 1, 1991, through June 30, 1996, pursuant to a contract authorized by [subsection B of Section 1-106 of Title 63 of the Oklahoma Statutes](#) and in conformity with the requirements of [Section 1-233 of Title 63 of the Oklahoma Statutes](#), the limits of said liability shall be Two Hundred Thousand Dollars (\$200,000.00); or

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

B. 1. Beginning on the effective date of this act, [\[FN2\]](#) claims shall be allowed for wrongful criminal felony conviction resulting in imprisonment if the claimant has received a full pardon on the basis of a written finding by the Governor of actual innocence for the crime for which the claimant was sentenced or has been granted judicial relief absolving the claimant of guilt on the basis of actual innocence of the crime for which the claimant was sentenced. The Governor or the court shall specifically state, in the pardon or order, the evidence or basis on which the finding of actual innocence is based.

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

- a. the individual was charged, by indictment or information, with the commission of a public offense classified as a felony,
- b. the individual did not plead guilty to the offense charged, or to any lesser included offense, but was convicted of the offense,
- c. the individual was sentenced to incarceration for a term of imprisonment as a result of the conviction,
- d. the individual was imprisoned solely on the basis of the conviction for the offense, and

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

(2) in the case of judicial relief, a court of competent jurisdiction found by clear and convincing evidence that the offense for which the individual was convicted, sentenced and imprisoned, including any lesser included offenses, was not committed by the individual and issued an order vacating, dismissing or reversing the conviction and sentence and providing that no further proceedings can be or will be held against the individual on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

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

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

5. The provisions of this subsection shall apply to convictions occurring on or before the effective date of this act as well as convictions occurring after the effective date of this act. If a court of competent jurisdiction finds that retroactive application of this subsection is unconstitutional, the prospective application of this subsection shall remain valid.

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

D. When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant the claimant's proper share of the total amount as limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settle-

ments for all claims against the state or its political subdivisions arising out of the occurrence. When the amount of the aggregate losses presented by a single claimant exceeds the limits of paragraph 1 or 2 of subsection A of this section, each person suffering a loss shall be entitled to that person's proportionate share.

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

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

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

#### CREDIT(S)

Acts 1978, c. 203, § 4, eff. July 1, 1978; Laws 1979, c. 280, § 2, eff. July 1, 1979; Laws 1982, c. 199, § 1, operative July 1, 1983; Laws 1984, c. 226, § 5, eff. Oct. 1, 1985; Laws 1986, c. 247, § 22, operative July 1, 1986; Laws 1988, c. 241, § 1, eff. Nov. 1, 1988; Laws 1988, c. 326, § 6, emerg. eff. July 13, 1988; Laws 1990, c. 51, § 115, emerg. eff. April 9, 1990; Laws 1991, c. 250, § 7, eff. Sept. 1, 1991; Laws 1994, c. 283, § 1, eff. Sept. 1, 1994; Laws 2000, c. 351, § 10, emerg. eff. June 6, 2000; Laws 2003, c. 304, § 2, emerg. eff. May 28, 2003.

[FN1] O.S.L. 1984, c. 226, effective Oct. 1, 1985.

[FN2] O.S.L.2003, c. 304, emergency effective May 28, 2003.

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