

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1003

By: Gann

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5  
6 AS INTRODUCED

7 An Act relating to officers; amending 51 O.S. 2011,  
8 Section 155, as last amended by Section 3, Chapter  
9 273, O.S.L. 2016 (51 O.S. Supp. 2020, Section 155),  
10 which relates to The Governmental Tort Claims Act;  
11 allowing for liability of state or political  
12 subdivision in certain circumstances; defining term;  
13 and providing an effective date.

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

15 SECTION 1. AMENDATORY 51 O.S. 2011, Section 155, as last  
16 amended by Section 3, Chapter 273, O.S.L. 2016 (51 O.S. Supp. 2020,  
17 Section 155), is amended to read as follows:

18 Section 155. The state or a political subdivision shall not be  
19 liable if a loss or claim results from:

- 20 1. Legislative functions;
- 21 2. Judicial, quasi-judicial, or prosecutorial functions, other  
22 than claims for wrongful criminal felony conviction resulting in  
23 imprisonment provided for in Section 154 of this title;
- 24 3. Execution or enforcement of the lawful orders of any court;

1           4. Adoption or enforcement of or failure to adopt or enforce a  
2 law, whether valid or invalid, including, but not limited to, any  
3 statute, charter provision, ordinance, resolution, rule, regulation  
4 or written policy;

5           5. Performance of or the failure to exercise or perform any act  
6 or service which is in the discretion of the state or political  
7 subdivision or its employees;

8           6. Civil disobedience, riot, insurrection or rebellion or the  
9 failure to provide, or the method of providing, police, law  
10 enforcement or fire protection, unless such failure to provide or  
11 method of providing police, law enforcement or fire protection is  
12 grossly negligent. For purposes of this paragraph, "gross  
13 negligence" means the want of slight care and diligence;

14           7. Any claim based on the theory of attractive nuisance;

15           8. Snow or ice conditions or temporary or natural conditions on  
16 any public way or other public place due to weather conditions,  
17 unless the condition is affirmatively caused by the negligent act of  
18 the state or a political subdivision;

19           9. Entry upon any property where that entry is expressly or  
20 implied authorized by law;

21           10. Natural conditions of property of the state or political  
22 subdivision;

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1        11. Assessment or collection of taxes or special assessments,  
2 license or registration fees, or other fees or charges imposed by  
3 law;

4        12. Licensing powers or functions including, but not limited  
5 to, the issuance, denial, suspension or revocation of or failure or  
6 refusal to issue, deny, suspend or revoke any permit, license,  
7 certificate, approval, order or similar authority;

8        13. Inspection powers or functions, including failure to make  
9 an inspection, review or approval, or making an inadequate or  
10 negligent inspection, review or approval of any property, real or  
11 personal, to determine whether the property complies with or  
12 violates any law or contains a hazard to health or safety, or fails  
13 to conform to a recognized standard;

14       14. Any loss to any person covered by any workers' compensation  
15 act or any employer's liability act;

16       15. Absence, condition, location or malfunction of any traffic  
17 or road sign, signal or warning device unless the absence,  
18 condition, location or malfunction is not corrected by the state or  
19 political subdivision responsible within a reasonable time after  
20 actual or constructive notice or the removal or destruction of such  
21 signs, signals or warning devices by third parties, action of  
22 weather elements or as a result of traffic collision except on  
23 failure of the state or political subdivision to correct the same  
24 within a reasonable time after actual or constructive notice.

1 Nothing herein shall give rise to liability arising from the failure  
2 of the state or any political subdivision to initially place any of  
3 the above signs, signals or warning devices. The signs, signals and  
4 warning devices referred to herein are those used in connection with  
5 hazards normally connected with the use of roadways or public ways  
6 and do not apply to the duty to warn of special defects such as  
7 excavations or roadway obstructions;

8 16. Any claim which is limited or barred by any other law;

9 17. Misrepresentation, if unintentional;

10 18. An act or omission of an independent contractor or  
11 consultant or his or her employees, agents, subcontractors or  
12 suppliers or of a person other than an employee of the state or  
13 political subdivision at the time the act or omission occurred;

14 19. Theft by a third person of money in the custody of an  
15 employee unless the loss was sustained because of the negligence or  
16 wrongful act or omission of the employee;

17 20. Participation in or practice for any interscholastic or  
18 other athletic contest sponsored or conducted by or on the property  
19 of the state or a political subdivision;

20 21. Participation in any activity approved by a local board of  
21 education and held within a building or on the grounds of the school  
22 district served by that local board of education before or after  
23 normal school hours or on weekends;

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1       22. Use of indoor or outdoor school property and facilities  
2 made available for public recreation before or after normal school  
3 hours or on weekends or school vacations, except those claims  
4 resulting from willful and wanton acts of negligence. For purposes  
5 of this paragraph:

6           a. "public" includes, but is not limited to, students  
7                during nonschool hours and school staff when not  
8                working as employees of the school, and

9           b. "recreation" means any indoor or outdoor physical  
10               activity, either organized or unorganized, undertaken  
11               for exercise, relaxation, diversion, sport or  
12               pleasure, and that is not otherwise covered by  
13               paragraph 20 or 21 of this section;

14       23. Any court-ordered, Department of Corrections or county  
15 approved work release program; provided, however, this provision  
16 shall not apply to claims from individuals not in the custody of the  
17 Department of Corrections based on accidents involving motor  
18 vehicles owned or operated by the Department of Corrections;

19       24. The activities of the National Guard, the militia or other  
20 military organization administered by the Military Department of the  
21 state when on duty pursuant to the lawful orders of competent  
22 authority:

23           a. in an effort to quell a riot,  
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- 1           b.    in response to a natural disaster or military attack,  
2                    or  
3           c.    if participating in a military mentor program ordered  
4                    by the court;

5           25.  Provision, equipping, operation or maintenance of any  
6  prison, jail or correctional facility, or injuries resulting from  
7  the parole or escape of a prisoner or injuries by a prisoner to any  
8  other prisoner; provided, however, this provision shall not apply to  
9  claims from individuals not in the custody of the Department of  
10 Corrections based on accidents involving motor vehicles owned or  
11 operated by the Department of Corrections;

12          26.  Provision, equipping, operation or maintenance of any  
13 juvenile detention facility, or injuries resulting from the escape  
14 of a juvenile detainee, or injuries by a juvenile detainee to any  
15 other juvenile detainee;

16          27.  Any claim or action based on the theory of manufacturer's  
17 products liability or breach of warranty, either expressed or  
18 implied;

19          28.  Any claim or action based on the theory of indemnification  
20 or subrogation;

21          29.  Any claim based upon an act or omission of an employee in  
22 the placement of children;

23          30.  Acts or omissions done in conformance with then current  
24 recognized standards;

1       31. Maintenance of the state highway system or any portion  
2 thereof unless the claimant presents evidence which establishes  
3 either that the state failed to warn of the unsafe condition or that  
4 the loss would not have occurred but for a negligent affirmative act  
5 of the state;

6       32. Any confirmation of the existence or nonexistence of any  
7 effective financing statement on file in the office of the Secretary  
8 of State made in good faith by an employee of the office of the  
9 Secretary of State as required by the provisions of Section 1-9-  
10 320.6 of Title 12A of the Oklahoma Statutes;

11       33. Any court-ordered community sentence;

12       34. Remedial action and any subsequent related maintenance of  
13 property pursuant to and in compliance with an authorized  
14 environmental remediation program, order, or requirement of a  
15 federal or state environmental agency;

16       35. The use of necessary and reasonable force by a school  
17 district employee to control and discipline a student during the  
18 time the student is in attendance or in transit to and from the  
19 school, or any other function authorized by the school district;

20       36. Actions taken in good faith by a school district employee  
21 for the out-of-school suspension of a student pursuant to applicable  
22 Oklahoma Statutes; or

23       37. Use of a public facility opened to the general public  
24 during an emergency.

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

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3 58-1-5632 AB 12/03/20

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