

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2917

By: Goodwin

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6 AS INTRODUCED

7 An Act relating to torts; stating liability of peace  
8 officers for injuries related to the deprivation of  
9 certain rights; making statutory immunities and  
10 limitations on liability inapplicable to claims  
11 brought by plaintiffs; prohibiting the assertion of  
12 qualified immunity as a defense to liability;  
13 providing for the award of reasonable attorney fees  
14 and costs; directing employers to indemnify peace  
15 officers under certain circumstances; prohibiting  
16 indemnification of peace officers under certain  
17 circumstances; providing for codification; and  
18 providing an effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 121 of Title 76, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. A peace officer, as defined in Section 99 of Title 21 of the  
24 Oklahoma Statutes, employed by the state or any political  
subdivision of this state who, under color of law, subjects or  
causes to be subjected, including failing to intervene, any other  
person to the deprivation of any individual rights that create  
binding obligations on government actors secured by the Bill of

1 Rights, Article II of the Oklahoma Constitution, is liable to the  
2 injured party for legal or equitable relief or any other appropriate  
3 relief.

4 B. Statutory immunities and statutory limitations on liability,  
5 damages or attorney fees do not apply to claims brought pursuant to  
6 this section. The Governmental Tort Claims Act shall not apply to  
7 claims brought pursuant to this section.

8 C. Qualified immunity is not a defense to liability pursuant to  
9 this section.

10 D. In any action brought pursuant to this section, a court  
11 shall award reasonable attorney fees and costs to a prevailing  
12 plaintiff. In actions for injunctive relief, a court shall deem a  
13 plaintiff to have prevailed if the lawsuit of the plaintiff was a  
14 substantial factor or significant catalyst in obtaining the results  
15 sought by the litigation. When a judgment is entered in favor of a  
16 defendant, the court may award reasonable costs and attorney fees to  
17 the defendant for defending any claims the court finds frivolous.

18 E. The employer of the peace officer shall indemnify its peace  
19 officer for any liability incurred by the peace officer and for any  
20 judgment or settlement entered against the peace officer for claims  
21 arising pursuant to this section; except that, if the employer of  
22 the peace officer determines that the officer did not act upon a  
23 good-faith and reasonable belief that the action was lawful, then  
24 the peace officer is personally liable and shall not be indemnified

1 by the employer of the peace officer for five percent (5%) of the  
2 judgment or settlement or Twenty-five Thousand Dollars (\$25,000.00),  
3 whichever is less. Notwithstanding any provision of this section to  
4 the contrary, if the peace officer's portion of the judgment is  
5 uncollectible from the peace officer, the employer of the peace  
6 officer or insurance shall satisfy the full amount of the judgment  
7 or settlement. The peace officer shall not be indemnified by the  
8 employer for any monetary judgments or legal expenses, including  
9 attorney fees, if the conduct of the peace officer from which the  
10 claim arose constituted a criminal offense and the peace officer was  
11 convicted of said criminal offense.

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

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14 58-1-5083 GRS 01/11/21

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