

TENNESSEE GOVERNMENTAL TORT LIABILITY ACT

AN OVERVIEW



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE



Tennessee Governmental Tort Liability Act

In 1973, the General Assembly passed the TGTLA

To remove the absolute immunity of “governmental entities” and to provide henceforth that governmental entities would be subject to suit for certain types of claims

Tenn. Code Ann. § 29-20-201

(a) Except as may be otherwise provided in this chapter, all governmental entities shall be immune from suit for any injury which may result from the activities of such governmental entities



Governmental Entity

“Governmental entity” means any political subdivision of the state of Tennessee including, but not limited to, any municipality, metropolitan government, county, utility district, school district, nonprofit volunteer fire department receiving funds appropriated by a county legislative body or a legislative body of a municipality, human resource agency, community action agency or nonprofit corporation that administers the Head Start or Community Service Block Grant programs, public building authority, and development district created and existing pursuant to the constitution and laws of Tennessee, or any instrumentality of government created by any one (1) or more of the named local governmental entities or by an act of the general assembly. . . .

Tenn. Code Ann. § 29-20-102(4)

“Injury” means death, injury to a person, damage to or loss of property or any other injury that one may suffer to one’s person, or estate, that would be actionable if inflicted by a private person or such person’s agent.



PERSONAL INJURY CLAIMS

(month & day)

Removal of Immunity

1. Negligent Operation of Motor Vehicles
2. Unsafe Streets and Sidewalks
3. Dangerous Structures
4. Negligent Acts or Omissions of Employees

Tenn. Code Ann.

§ 29-20-202

(a) Immunity from suit of all governmental entities is removed for injuries resulting from the **negligent** operation by any employee of a motor vehicle or other equipment **while in the scope of employment.**

(b) This section shall not act as a repeal of § 55-8-101, § 55-8-108, or § 55-8-132, and the immunities provided by these sections are hereby expressly continued.





Tenn. Code Ann. § 29-20-203

(a) Immunity from suit of a governmental entity is removed for any injury caused by a defective, unsafe, or dangerous condition of any street, alley, sidewalk or highway, owned and controlled by such governmental entity. “Street” or “highway” includes traffic control devices thereon.

Dangerous Alleyways, Highways, Sidewalks, and Streets

(b) This section shall not apply unless constructive and/or actual notice to the governmental entity of such condition be alleged and proved in addition to the procedural notice required by § 29-20-302.

And subsection (c) provides a limitation on claims regarding deficiencies in trolley and light rail systems.

Tenn. Code Ann. § 29-20-204

(a) Immunity from suit of a governmental entity is removed for any injury caused by the dangerous or defective condition of any public building, structure, dam, reservoir or other public improvement **owned and controlled** by such governmental entity.



Dangerous Structures

(b) Immunity is not removed for latent defective conditions, nor shall this section apply unless constructive and/or actual notice to the governmental entity of such condition be alleged and proved in addition to the procedural notice required by § 29-20-302.



Tenn. Code Ann. § 29-20-205

Immunity from suit of all governmental entities is removed for injury proximately caused by a negligent act or omission of any employee within the scope of his employment **except if the injury arises out of:**

1. Discretionary functions
2. False imprisonment pursuant to a mittimus from a court, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, invasion of right of privacy, or civil rights
3. Issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization
4. Inspections – failure or negligence
5. Institution of judicial proceedings regardless of motive
6. Misrepresentation – negligent or intentional
7. Riots, Unlawful Assemblies, Public Demonstrations, Mob Violence, Civil Disturbances
8. Taxes – assessment, levy or collection
9. Y2K
10. COVID-19

Filing Suit

- Suit must be brought in circuit court unless county has a population > 850,000 in which case suit may be brought in general sessions court, too.
- Suit must be brought within one year after cause of action arises.
- Suit is generally decided by a judge without a jury.
- Suit must be filed in the county where the local government is located or in the county where the incident occurred.



Tenn. Code Ann. § 29-20-310(a)

The court must first determine that the employee's act or acts were negligent and the proximate cause of plaintiff's injury

And the employee acted within the scope of his employment and that none of the exceptions listed in § 29-20-205 are applicable to the facts before the court

Insurance & Claims

Tenn. Code Ann. § 29-20-403

(a) Any governmental entity may purchase insurance to cover its liability under this chapter

OR

(c) A governmental entity can self-insure and shall have the same limits of liability as if insurance had been purchased



Insurance Limits

- Minimum \$300,000 for bodily injury or death of any one person in any one accident, occurrence or act
- Minimum \$700,000 for bodily injury or death of all persons in any one accident, occurrence or act
- Minimum \$100,000 for injury or destruction of property of others in any one accident, occurrence or act
- SB0418/HB0004, which proposed to raise minimum limits, pends

Tenn. Code Ann. § 29-20-111

Notwithstanding any provision of this chapter or any other law to the contrary, no claim may be brought, or any judgment entered against an employee of local government, who is acting in good faith and within the scope of employment, arising from the employee's negligent act or omission in attempting to control another person's disorderly conduct or violent behavior that delays or disrupts, or threatens to delay or disrupt, a courtroom proceeding or that jeopardizes the safety of a judge, judicial employee, attorney, litigant, witness, or spectator who is present for a judicial proceeding.

Tenn. Code Ann. § 29-20-310(b)

No claim may be brought against an employee or judgment entered against an employee for damages for which the immunity of the governmental entity is removed by this chapter unless the claim is one for health care liability brought against a health care practitioner. No claim for health care liability may be brought against a health care practitioner or judgment entered against a health care practitioner for damages for which the governmental entity is liable under this chapter, unless the amount of damages sought or judgment entered exceeds the minimum limits set out in § 29-20-403 or the amount of insurance coverage actually carried by the governmental entity, whichever is greater, and the governmental entity is also made a party defendant to the action. As used in this subsection (b), “health care practitioner” means physicians licensed under title 63, chapter 6, and nurses licensed under title 63, chapter 7.

Tenn. Code Ann. § 29-20-310(c)

No claim may be brought against an employee or judgment entered against an employee for injury proximately caused by an act or omission of the employee within the scope of the employee's employment for which the governmental entity is immune in any amount in excess of the amounts established for governmental entities in § 29-20-403, unless the act or omission was willful, malicious, criminal, or performed for personal financial gain, or unless the act or omission was one of health care liability committed by a health care practitioner and the claim is brought against such health care practitioner.

Tenn. Code Ann. § 29-20-310(d)

Local governmental entities shall have the right, as a matter of local option, to elect to insure or to indemnify their employees for claims for which the governmental entity is immune under this chapter arising under state or federal law upon such terms and conditions as the local government may deem appropriate; provided, that such indemnification may not exceed the limits of liability established for governmental entities in § 29-20-403 except in causes of action in which the liability of governmental employees is not limited as provided in this chapter.

THANK YOU!

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