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SENATE BILL 912

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO TORTS; AMENDING THE TORT CLAIMS ACT; CLARIFYING  
PERMISSIBLE DAMAGE AWARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 41-4-12 NMSA 1978 (being Laws 1976,  
Chapter 58, Section 12, as amended) is amended to read:

"41-4-12. LIABILITY-- [~~LAW ENFORCEMENT OFFICERS~~] PUBLIC  
EMPLOYEES. --The immunity granted pursuant to Subsection A of  
Section [~~5-14-4 NMSA 1953~~] 41-4-4 NMSA 1978 does not apply to  
liability for personal injury, bodily injury, wrongful death or  
property damage resulting from assault, battery, false  
imprisonment, false arrest, malicious prosecution, abuse of  
process, libel, slander, defamation of character, violation of  
property rights or deprivation of any rights, privileges or  
immunities secured by the constitution and laws of the United

underscored material = new  
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1 States or New Mexico when caused by [~~law enforcement officers~~]  
2 public employees while acting within the scope of their  
3 duties. "

4 Section 2. Section 41-4-19 NMSA 1978 (being Laws 1976,  
5 Chapter 58, Section 17, as amended) is amended to read:

6 "41-4-19. MAXIMUM LIABILITY. --

7 A. In any action for damages against a governmental  
8 entity or a public employee while acting within the scope of  
9 [~~his~~] the employee's duties as provided in the Tort Claims Act,  
10 the liability shall not exceed:

11 (1) the sum of one hundred thousand dollars  
12 (\$100,000) for damage to or destruction of property arising out  
13 of a single occurrence; and

14 (2) the sum of three hundred thousand dollars  
15 (\$300,000) for all past and future medical and medically  
16 related expenses arising out of a single occurrence; and

17 (3) the sum of four hundred thousand dollars  
18 (\$400,000) to any person for any number of claims arising out  
19 of a single occurrence for all damages other than property  
20 damage and medical and medically related expenses as permitted  
21 under the Tort Claims Act; or

22 (4) the sum of seven hundred fifty thousand  
23 dollars (\$750,000) for all claims other than medical or  
24 medically related expenses arising out of a single occurrence.

25 B. Interest shall be allowed on judgments against a

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1 governmental entity or public employee for a tort for which  
2 immunity has been waived under the Tort Claims Act at a rate  
3 equal to two percentage points above the prime rate as  
4 published in the *Wall Street Journal* on the date of the entry  
5 of the judgment. Interest shall be computed daily from the  
6 date of the entry of the judgment until the date of payment.

7 C. Except in claims brought under the constitution  
8 of the United States or the state of New Mexico, no judgment  
9 against a governmental entity or public employee for any tort  
10 for which immunity has been waived under the Tort Claims Act  
11 shall include an award for exemplary or punitive damages or for  
12 interest prior to judgment. In claims brought under the  
13 constitution of the United States or the state of New Mexico, a  
14 prevailing plaintiff may be awarded attorney fees, expenses,  
15 costs, exemplary or punitive damages and interest prior to  
16 judgment, and the state shall be liable the same as a private  
17 person. "