

By Senator Baxley

12-00534-19

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1                                   A bill to be entitled  
2       An act relating to child protection teams; amending s.  
3       768.28, F.S.; revising the definition of the term  
4       "officer, employee, or agent," as it applies to  
5       immunity from personal liability in certain actions,  
6       to include any member of a child protection team  
7       established by the Department of Health in certain  
8       circumstances; providing an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12       Section 1. Paragraphs (a) and (b) of subsection (9) of  
13       section 768.28, Florida Statutes, are amended to read:

14       768.28 Waiver of sovereign immunity in tort actions;  
15       recovery limits; limitation on attorney fees; statute of  
16       limitations; exclusions; indemnification; risk management  
17       programs.—

18       (9) (a) An ~~No~~ officer, employee, or agent of the state or of  
19       any of its subdivisions may not ~~shall~~ be held personally liable  
20       in tort or named as a party defendant in any action for any  
21       injury or damage suffered as a result of any act, event, or  
22       omission of action in the scope of her or his employment or  
23       function, unless such officer, employee, or agent acted in bad  
24       faith or with malicious purpose or in a manner exhibiting wanton  
25       and willful disregard of human rights, safety, or property.  
26       However, such officer, employee, or agent shall be considered an  
27       adverse witness in a tort action for any injury or damage  
28       suffered as a result of any act, event, or omission of action in  
29       the scope of her or his employment or function. The exclusive

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30 remedy for injury or damage suffered as a result of an act,  
31 event, or omission of an officer, employee, or agent of the  
32 state or any of its subdivisions or constitutional officers is  
33 ~~shall be~~ by action against the governmental entity, or the head  
34 of such entity in her or his official capacity, or the  
35 constitutional officer of which the officer, employee, or agent  
36 is an employee, unless such act or omission was committed in bad  
37 faith or with malicious purpose or in a manner exhibiting wanton  
38 and willful disregard of human rights, safety, or property. The  
39 state or its subdivisions are ~~shall~~ not be liable in tort for  
40 the acts or omissions of an officer, employee, or agent  
41 committed while acting outside the course and scope of her or  
42 his employment or committed in bad faith or with malicious  
43 purpose or in a manner exhibiting wanton and willful disregard  
44 of human rights, safety, or property.

45 (b) As used in this subsection, the term:

46 1. "Employee" includes any volunteer firefighter.

47 2. "Officer, employee, or agent" includes, but is not  
48 limited to, any health care provider when providing services  
49 pursuant to s. 766.1115; any nonprofit independent college or  
50 university located and chartered in this state which owns or  
51 operates an accredited medical school, and its employees or  
52 agents, when providing patient services pursuant to paragraph  
53 (10) (f); ~~and~~ any public defender or her or his employee or  
54 agent, including, ~~among others,~~ an assistant public defender or  
55 ~~and~~ an investigator; and any member of a child protection team,  
56 as defined in s. 39.01, when carrying out her or his duties as a  
57 team member.

58 Section 2. This act shall take effect July 1, 2019.