

By the Committee on Civil Justice & Claims and  
Representatives Reddick, Sindler, Bloom, Feeney, Trovillion  
and Logan

1                                   A bill to be entitled  
2           An act relating to teaching hospitals; creating  
3           s. 766.1116, F.S.; providing legislative  
4           findings and intent with respect to protection  
5           through sovereign immunity of teaching  
6           hospitals; providing definitions; providing for  
7           a "governmental contractor," defined as the  
8           Department of Health or the Agency for Health  
9           Care Administration, to contract for delivery  
10          by a teaching hospital of charity health  
11          services and medical education services;  
12          providing that a teaching hospital, while  
13          acting within the scope of duties pursuant to  
14          such contract, is an agent for purposes of  
15          specified provisions relating to sovereign  
16          immunity or waiver thereof; providing for  
17          nonliability of the teaching hospital or its  
18          officers, employees, or agents with respect to  
19          certain actions; requiring inclusion of  
20          specified provisions and guidelines in such  
21          contract; requiring the governmental contractor  
22          to enter into nonexclusive contracts for  
23          provision of the charity health services or  
24          medical education health care services and to  
25          establish certain quality assurance programs;  
26          requiring certain notice to patients by the  
27          contracting teaching hospital with respect to  
28          its agent status and applicable limitations  
29          upon remedies for injury or damage; providing  
30          for applicability; providing an effective date.  
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 766.1116, Florida Statutes, is  
4 created to read:

5 766.1116 Teaching hospitals; provision of charity  
6 health care services and medical education health care  
7 services.--

8 (1) The Legislature finds that teaching hospitals  
9 provide access to health care to a significant number of  
10 indigent, uninsured residents of this state, that teaching  
11 hospitals provide benefits to the people of this state through  
12 their medical education programs, that these benefits are at  
13 significant risk because teaching hospitals fear the increased  
14 risk of medical malpractice liability, and that the continued  
15 viability of teaching hospitals must be protected for the  
16 purposes of providing charity health care services and medical  
17 education health care services. It is, therefore, the intent  
18 of the Legislature to provide requirements for teaching  
19 hospitals to become agents of the state and to ensure that  
20 teaching hospitals satisfying these requirements are protected  
21 by sovereign immunity, pursuant to this section.

22 (2) As used in this section, the term:

23 (a) "Contract" means an agreement executed in  
24 compliance with this section between a teaching hospital and a  
25 governmental contractor. This contract shall allow a teaching  
26 hospital to deliver charity health care services and medical  
27 education health care services to patients as an agent of the  
28 governmental contractor.

29 (b) "Governmental contractor" means the Department of  
30 Health or the Agency for Health Care Administration.

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1           (c) "Charity health care services" means health care  
2 services provided to low-income persons.

3           (d) "Low-income" has the same meaning as in s.  
4 766.1115(3)(e).

5           (e) "Medical education health care services" means all  
6 health care services provided to a person at a teaching  
7 hospital who is under the care of physicians who are medical  
8 residents at the teaching hospital or under the care of  
9 physicians on the medical education staff of the teaching  
10 hospital.

11           (f) "Teaching hospital" has the same meaning as in s.  
12 408.07(49).

13           (3)(a) A teaching hospital that executes a contract  
14 with a governmental contractor to deliver charity health care  
15 services and medical education services as an agent of the  
16 governmental contractor is an agent for purposes of s.  
17 768.28(9), while acting within the scope of duties pursuant to  
18 the contract, if the contract complies with the requirements  
19 of this section. Neither a teaching hospital under contract  
20 with a governmental contractor nor the officers, employees, or  
21 agents of the teaching hospital may be named as a defendant in  
22 any action arising out of charity health care services or  
23 medical education health care services which are provided on  
24 or after the effective date of this section, pursuant to  
25 contracts entered under this section.

26           (b) The contract shall:

27           1. Contain provisions that satisfy the requirements of  
28 s. 766.1115(4)(a), (b), (c), (e), and (g);

29           2. Require that the teaching hospital shall defend  
30 against, on behalf of the governmental contractor, and shall  
31 be responsible for its own litigation costs and attorney's

1 fees for, any malpractice litigation arising out of health  
2 care services delivered pursuant to this section;

3 3. Provide for the indemnification of the state by the  
4 teaching hospital for any liabilities incurred up to the  
5 limits established in s. 768.28; and

6 4. Specify the level of charity care the teaching  
7 hospital must provide.

8 (4) A governmental contractor shall enter into  
9 nonexclusive contracts with teaching hospitals for the  
10 provision of charity health care services and medical  
11 education health care service under which a teaching hospital  
12 shall be an agent of the state. Any such contract shall  
13 prescribe the scope of and guidelines for the charity health  
14 care services and medical education health care services to be  
15 provided pursuant to the contract. The governmental contractor  
16 shall establish a quality assurance program to monitor  
17 services delivered under any contract between the governmental  
18 contractor and the teaching hospital pursuant to this section.

19 (5) Notice of agency relationship.--The teaching  
20 hospital must provide written notice to each patient, or the  
21 patient's legal representative, that the teaching hospital is  
22 an agent of the governmental contractor for the provision of  
23 charity health care services and medical education health care  
24 services and that the exclusive remedy for injury or damage  
25 suffered as the result of any act or omission of the provider  
26 or of any employee or agent thereof acting within the scope of  
27 duties pursuant to the contract is by commencement of an  
28 action pursuant to the provisions of s. 768.28.

29 (6) This section applies to incidents occurring on or  
30 after the effective date of this section.

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686-114-97

1 Section 2. This act shall take effect upon becoming a  
2 law.

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5 HOUSE SUMMARY

6 Declares legislative intent to ensure that certain  
7 teaching hospitals are protected by sovereign immunity.  
8 Provides for the Department of Health or the Agency for  
9 Health Care Administration as a "governmental contractor"  
10 to contract with a teaching hospital under which the  
11 teaching hospital is permitted to deliver charity health  
12 services and medical education services as an agent of  
13 the governmental contractor. Provides that a teaching  
14 hospital, while acting within the scope of duties  
15 pursuant to such contract, is an agent for purposes of  
16 specified provisions relating to sovereign immunity or  
17 waiver thereof applicable to officers, employees, or  
18 agents of the state or its subdivisions. Provides for  
19 nonliability of the teaching hospital or its officers,  
20 employees, or agents with respect to actions arising out  
21 of charity health services or medical education health  
22 care services provided pursuant to such contract.  
23 Requires inclusion of specified provisions and guidelines  
24 in the contract. Requires the governmental contractor to  
25 enter nonexclusive contracts with teaching hospitals for  
26 provision of such services and to establish certain  
27 quality assurance programs. Requires certain notice to  
28 patients by the contracting teaching hospital with  
29 respect to its status as an agent of the governmental  
30 contractor and applicable limitations upon remedies for  
31 injury or damage.