

By Senator Gutman

34-131-98

1 A bill to be entitled
2 An act relating to waiver of sovereign
3 immunity; amending s. 768.28, F.S.; providing a
4 limited waiver of sovereign immunity for
5 liability for torts committed by private prison
6 guards; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Subsections (1) and (2) of section 768.28,
11 Florida Statutes, are amended to read:

12 768.28 Waiver of sovereign immunity in tort actions;
13 recovery limits; limitation on attorney fees; statute of
14 limitations; exclusions; indemnification; risk management
15 programs.--

16 (1) In accordance with s. 13, Art. X, State
17 Constitution, the state, for itself and for its agencies or
18 subdivisions, hereby waives sovereign immunity for liability
19 for torts, but only to the extent specified in this act.
20 Actions at law against the state or any of its agencies or
21 subdivisions to recover damages in tort for money damages
22 against the state or its agencies or subdivisions for injury
23 or loss of property, personal injury, or death caused by the
24 negligent or wrongful act or omission of any employee of the
25 agency or subdivision while acting within the scope of the
26 employee's office or employment under circumstances in which
27 the state or such agency or subdivision, if a private person,
28 would be liable to the claimant, under ~~in accordance with~~ the
29 general laws of this state, may be prosecuted subject to the
30 limitations specified in this act. ~~Any~~ Such action may be
31 brought in the county where the property in litigation is

1 located or, if the affected agency or subdivision has an
2 office in such county for the transaction of its customary
3 business, where the cause of action accrued.

4 (2) As used in this act, "state agencies or
5 subdivisions" include the executive departments, the
6 Legislature, the judicial branch (including public defenders),
7 and the independent establishments of the state; counties and
8 municipalities; and corporations and employees of
9 corporations, including private prison guards, primarily
10 acting as instrumentalities or agencies of the state,
11 counties, or municipalities, including the Spaceport Florida
12 Authority.

13 Section 2. This act shall take effect July 1, 1998.

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15 SENATE SUMMARY

16 Provides a limited waiver of sovereign immunity for
17 private prison guards.
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