

By Senators Brown-Waite and McKay

10-451A-99

1 A bill to be entitled
2 An act relating to foster care; specifying that
3 a provider that furnishes foster care services
4 under a contract with the Department of
5 Children and Family Services is an
6 instrumentality of the state; providing for
7 certain limitations on tort actions brought
8 against the provider; requiring that a contract
9 provide for indemnification of the state due to
10 negligence of the provider; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Any provider that furnishes foster care
16 under a contract with the Department of Children and Family
17 Services is deemed to be a corporation acting primarily as an
18 instrumentality of the state, and the limitations on tort
19 actions contained in section 768.28, Florida Statutes, shall
20 apply to any action brought against the provider with respect
21 to such foster care services if the provider is acting within
22 the scope of and pursuant to guidelines established in the
23 contract or by rule of the Department of Children and Family
24 Services. A contract must provide for the indemnification of
25 the state by the provider for any liabilities that may be
26 incurred by the state due to negligence of the provider, up to
27 the limits established under section 768.28, Florida Statutes,
28 in addition to all defense costs incurred by the state.

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

31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides that a foster-care provider acting under a contract with the Department of Children and Family Services is an instrumentality of the state for purposes of the waiver of sovereign immunity in tort actions. Provides for certain limitations to apply with respect to any such tort action if the provider is acting within the scope of the contract and rules of the department. Requires that the contract provide for indemnification of the state for certain liabilities and defense costs incurred by the state.