

By Representative Kyle

1                                   A bill to be entitled  
2           An act relating to lawyer assistance programs;  
3           providing for civil immunity for the good faith  
4           report of information to a lawyer assistance  
5           program; providing for a presumption of good  
6           faith; providing immunity for certain persons;  
7           providing that certain information is subject  
8           to the attorney-client privilege; providing for  
9           the confidentiality of certain records,  
10          proceedings, and communications; providing an  
11          effective date.

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

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15           Section 1. Civil immunity.--A person who in good faith  
16 reports information or takes action in connection with a  
17 lawyer assistance program or a person who receives information  
18 in connection with a lawyer assistance program is immune from  
19 civil liability for reporting the information, taking the  
20 action, or taking no action, provided that such person has  
21 acted in good faith and without malice.

22           Section 2. Presumption of good faith.--A member of a  
23 lawyer assistance program or a person reporting information to  
24 a lawyer assistance program is presumed to have acted in good  
25 faith and without malice. A person alleging lack of good faith  
26 has the burden of proving bad faith and malice.

27           Section 3. Persons entitled to immunity.--The civil  
28 immunity provided for in this act shall be liberally construed  
29 to accomplish the purposes of this act. The persons entitled  
30 to immunity under this act include:

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1           (1) Florida Lawyers Assistance, Inc., and other lawyer  
2 assistance programs approved by the Florida Supreme Court or  
3 The Florida Bar that provide assistance to attorneys who may  
4 be impaired because of abuse of alcohol or other drugs or  
5 because of any other physical or mental infirmity causing  
6 impairment.

7           (2) A member, employee, or agent of the program,  
8 association, or nonprofit corporation.

9           (3) A person who reports or provides information to  
10 the program concerning an impaired legal professional,  
11 including, but not limited to, a person designated to monitor  
12 or supervise the course of treatment or rehabilitation of an  
13 impaired professional.

14           Section 4. Information subject to attorney-client  
15 privilege.--All information, in any form whatsoever, furnished  
16 to the lawyer assistance program shall be privileged  
17 communications and shall be governed by the laws pertaining to  
18 the attorney-client privilege.

19           Section 5. Confidentiality of records, proceedings,  
20 and communications.--The records, proceedings, and all  
21 communications of any lawyer assistance program shall be  
22 deemed confidential and shall not be available for court  
23 subpoena. This section shall not prevent the subpoena of  
24 business records that are otherwise available through  
25 subpoena. Such records are not to be construed as privileged  
26 merely because they have been maintained by a lawyer  
27 assistance program.

28           Section 6. This act shall take effect upon becoming a  
29 law.  
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HOUSE SUMMARY

Provides civil immunity for a person who in good faith reports information or takes action in connection with a lawyer assistance program, or to a person who receives information in connection with a lawyer assistance program. Provides that a lawyer assistance program, as described in the act, is to assist impaired attorneys. See bill for details.