

By the Committee on Judiciary and Senator Rossin

308-1566-01

1 A bill to be entitled
2 An act relating to lawyer assistance programs;
3 providing civil immunity for persons making
4 good-faith reports of information to a lawyer
5 assistance program; providing for a presumption
6 of good faith; providing for immunity for
7 certain persons; providing that certain
8 information is subject to the attorney-client
9 privilege; providing for the confidentiality of
10 certain records, proceedings and
11 communications; providing an 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 which 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, furnished to the
16 lawyer assistance program shall be privileged communication
17 and shall be governed by the laws pertaining to the
18 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 does 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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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 778

Clarifies the provisions governing the activities of lawyer assistance programs:

- Grants civil immunity from liability to persons reporting information to, intaking information for, or otherwise participating or volunteering with the lawyer assistance program.
- Provides for the confidentiality of the program's records (other than business records), proceedings, and communications and precludes the use of a subpoena to access these confidential materials.
- Makes communications based on all information provided to the program privileged and makes the law governing attorney-client privilege applicable.