

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 privilege; providing  
9           for 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 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 privilege.--All  
15 privileged information, whether attorney-client, work product,  
16 or otherwise, in any form, furnished to the lawyer assistance  
17 program shall remain privileged.

18           Section 5. Confidentiality of records, proceedings,  
19 and communications.--The records, proceedings, and all  
20 communications by and between an individual seeking assistance  
21 and the lawyer assistance program shall be deemed confidential  
22 and shall not be subject to disclosure or available for court  
23 subpoena. This section does not prevent the subpoena of  
24 business records that are otherwise available through  
25 subpoena, nor does this section preclude release or disclosure  
26 of information or communications by the lawyer assistance  
27 program when such disclosure is mandated or required as a  
28 condition or precondition for entry in the program. Such  
29 records are not to be construed as privileged merely because  
30 they have been maintained by a lawyer assistance program.

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1           Section 6. This act shall take effect upon becoming a  
2 law.  
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