

By the Committee on Judiciary; and Senators Posey and Clary

590-2350-05

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A bill to be entitled

An act relating to sovereign immunity; amending s. 768.28, F.S.; providing that a law enforcement agency is not liable for injury, death, or property damage effected or caused by a person fleeing a law enforcement officer under certain circumstances; providing for severability; providing for application; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (9) of section 768.28, Florida Statutes, to read:

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

(9)

(d) The employing agency of a law enforcement officer as defined in s. 943.10 is not liable for injury, death, or property damage effected or caused by a person fleeing from a law enforcement officer in a motor vehicle if:

1. At the time the law enforcement officer initiates the pursuit, the officer reasonably believes that the person fleeing has committed a forcible felony violation as defined in s. 776.08; and

2. The pursuit is conducted by the officer pursuant to a written high-speed pursuit policy adopted by the employing agency. The policy must contain specific procedures on the proper method to initiate and terminate high-speed pursuit.

1 The law enforcement officer must have received instructional
2 training from the employing agency on the written high-speed
3 pursuit policy.

4 Section 2. If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 invalidity does not affect other provisions or applications of
7 this act which can be given effect without the invalid
8 provision or application, and to this end the provisions of
9 this act are declared severable.

10 Section 3. This act shall take effect upon becoming a
11 law and shall apply to causes of action that accrue on or
12 after the effective date.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 2002

17 This committee substitute revises the substantive provisions
18 of the underlying bill in that the committee substitute:

- 19 -- Limits liability for property damage;
 - 20 -- Removes language which would have immunized law
21 enforcement agencies caused by the pursuit of drunk
22 drivers; and
 - 23 -- Clarifies the bill by removing language that could have
24 been construed to expand the liability of law enforcement
25 agencies and law enforcement officers under some
26 circumstances.
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