

By Senator Gaetz

1-00826-16

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1                   A bill to be entitled  
2           An act relating to child protection teams; amending s.  
3           768.28, F.S.; revising the definition of the term  
4           "officer, employee, or agent," as it applies to  
5           immunity from personal liability in certain actions,  
6           to include any member of a child protection team, in  
7           certain circumstances; providing an effective date.  
8

9   Be It Enacted by the Legislature of the State of Florida:  
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11           Section 1. Paragraphs (a) and (b) of subsection (9) of  
12           section 768.28, Florida Statutes, are amended to read:

13           768.28 Waiver of sovereign immunity in tort actions;  
14           recovery limits; limitation on attorney fees; statute of  
15           limitations; exclusions; indemnification; risk management  
16           programs.—

17           (9) (a) An ~~No~~ officer, employee, or agent of the state or of  
18           any of its subdivisions may not ~~shall~~ be held personally liable  
19           in tort or named as a party defendant in any action for any  
20           injury or damage suffered as a result of any act, event, or  
21           omission of action in the scope of her or his employment or  
22           function, unless such officer, employee, or agent acted in bad  
23           faith or with malicious purpose or in a manner exhibiting wanton  
24           and willful disregard of human rights, safety, or property.  
25           However, such officer, employee, or agent shall be considered an  
26           adverse witness in a tort action for any injury or damage  
27           suffered as a result of any act, event, or omission of action in  
28           the scope of her or his employment or function. The exclusive  
29           remedy for injury or damage suffered as a result of an act,

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30 event, or omission of an officer, employee, or agent of the  
31 state or any of its subdivisions or constitutional officers is  
32 ~~shall be~~ by action against the governmental entity, or the head  
33 of such entity in her or his official capacity, or the  
34 constitutional officer of which the officer, employee, or agent  
35 is an employee, unless such act or omission was committed in bad  
36 faith or with malicious purpose or in a manner exhibiting wanton  
37 and willful disregard of human rights, safety, or property. The  
38 state or its subdivisions are ~~shall not be~~ liable in tort for  
39 the acts or omissions of an officer, employee, or agent  
40 committed while acting outside the course and scope of her or  
41 his employment or committed in bad faith or with malicious  
42 purpose or in a manner exhibiting wanton and willful disregard  
43 of human rights, safety, or property.

44 (b) As used in this subsection, the term:

45 1. "Employee" includes any volunteer firefighter.

46 2. "Officer, employee, or agent" includes, but is not  
47 limited to, any health care provider when providing services  
48 pursuant to s. 766.1115; any nonprofit independent college or  
49 university located and chartered in this state which owns or  
50 operates an accredited medical school, and its employees or  
51 agents, when providing patient services pursuant to paragraph  
52 (10) (f); ~~and~~ any public defender or her or his employee or  
53 agent, including, ~~among others,~~ an assistant public defender or  
54 and an investigator; and any member of a child protection team,  
55 as defined in s. 39.01, when carrying out her or his duties as a  
56 team member.

57 Section 2. This act shall take effect July 1, 2016.