

By the Committee on Children, Families, and Elder Affairs; and
Senator Gaetz

586-02127-16

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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 licensed physicians who are medical
7 directors for or members of a child protection team,
8 in certain circumstances; providing an effective date.

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

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12 Section 1. Paragraphs (a) and (b) of subsection (9) of
13 section 768.28, Florida Statutes, are amended to read:

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

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

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

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

46 1. "Employee" includes any volunteer firefighter.

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

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