



407696

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2019	.	
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	.	

The Committee on Children, Families, and Elder Affairs (Rader) recommended the following:

Senate Amendment (with title amendment)

Delete line 58

and insert:

Section 2. Effective October 1, 2020, subsection (5) of section 768.28, Florida Statutes, is amended 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.—



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11 (5) The state and its agencies and subdivisions shall be
12 liable for tort claims in the same manner and to the same extent
13 as a private individual under like circumstances, but liability
14 shall not include punitive damages or interest for the period
15 before judgment. Neither the state nor its agencies or
16 subdivisions shall be liable to pay a claim or a judgment by any
17 one person which exceeds the sum of \$300,000 ~~\$200,000~~ or any
18 claim or judgment, or portions thereof, which, when totaled with
19 all other claims or judgments paid by the state or its agencies
20 or subdivisions arising out of the same incident or occurrence,
21 exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or
22 judgments may be claimed and rendered in excess of these amounts
23 and may be settled and paid pursuant to this act up to \$300,000
24 ~~\$200,000~~ or \$500,000 ~~\$300,000~~, as the case may be; and that
25 portion of the judgment that exceeds these amounts may be
26 reported to the Legislature, but may be paid in part or in whole
27 only by further act of the Legislature. Notwithstanding the
28 limited waiver of sovereign immunity provided herein, the state
29 or an agency or subdivision thereof may agree, within the limits
30 of insurance coverage provided, to settle a claim made or a
31 judgment rendered against it without further action by the
32 Legislature, but the state or agency or subdivision thereof
33 shall not be deemed to have waived any defense of sovereign
34 immunity or to have increased the limits of its liability as a
35 result of its obtaining insurance coverage for tortious acts in
36 excess of the \$300,000 ~~\$200,000~~ or \$500,000 ~~\$300,000~~ waiver
37 provided above. The limitations of liability set forth in this
38 subsection shall apply to the state and its agencies and
39 subdivisions whether or not the state or its agencies or



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40 subdivisions possessed sovereign immunity before July 1, 1974.

41 Section 2. The amendments to subsection (5) of section
42 768.28, Florida Statutes, in this act apply to claims arising on
43 or after October 1, 2020.

44 Section 3. Except as otherwise provided in this act, this
45 act shall take effect July 1, 2019.

46

47 ===== T I T L E A M E N D M E N T =====

48 And the title is amended as follows:

49 Delete lines 2 - 8

50 and insert:

51 An act relating to sovereign immunity; amending s.
52 768.28, F.S.; revising the definition of the term
53 "officer, employee, or agent," as it applies to
54 immunity from personal liability in certain actions,
55 to include any member of a child protection team
56 established by the Department of Health in certain
57 circumstances; modifying, as of a specified date, the
58 limitations of liability for tort claims or judgments;
59 providing applicability; providing effective dates.