



423800

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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05/01/2019 10:18 AM

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Senator Rader moved the following:

**Senate Amendment (with title amendment)**

Delete line 59

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.—

(5) The state and its agencies and subdivisions shall be



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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 \$1 million ~~\$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 \$2 million ~~\$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 \$1  
24 million ~~\$200,000~~ or \$2 million ~~\$300,000~~, as the case may be; and  
25 that 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 \$1 million ~~\$200,000~~ or \$2 million ~~\$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  
40 subdivisions possessed sovereign immunity before July 1, 1974.



41           Section 3. The amendments made to subsection (5) of section  
42 768.28, Florida Statutes, by this act apply to claims arising on  
43 or after October 1, 2020.

44           Section 4. 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.