

By the Committee on Judiciary; and Senators Flores and Rodriguez

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1 A bill to be entitled
2 An act relating to sovereign immunity; amending s.
3 768.28, F.S.; providing a short title; increasing the
4 statutory limits on liability for tort claims against
5 the state and its agencies and subdivisions;
6 conforming provisions to changes made by the act;
7 revising when a state and its agencies and
8 subdivisions may agree to settle a claim or judgment
9 without further action from the Legislature; requiring
10 that the limitations on tort liability be adjusted
11 every year after a specified date; specifying that the
12 limitations in effect on the date a final judgment is
13 entered apply to that judgment; prohibiting an
14 insurance policy from conditioning the payment of
15 benefits on the enactment of claim bills; amending ss.
16 29.0081, 39.8297, 163.01, 252.36, 260.0125, 288.9625,
17 316.6146, 321.24, 324.022, 381.0056, 403.0862,
18 456.048, 458.320, 459.0085, 589.19, 616.242, 624.461,
19 624.462, 627.733, 760.11, 766.1115, 766.118, 768.1315,
20 768.135, 944.713, 984.09, 985.037, 1002.55, 1002.88,
21 1004.41, 1004.43, 1004.447, and 1006.261, F.S.;
22 conforming cross-references; reenacting ss. 45.061,
23 110.504, 111.071, 163.01(15)(k), 190.043, 213.015,
24 284.31, 284.38, 337.19, 341.302, 373.1395, 375.251,
25 393.075, 403.706, 409.993, 455.221, 455.32, 456.009,
26 472.006, 497.167, 548.046, 556.106, 768.295, 946.5026,
27 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.77,
28 and 1002.83, F.S., to incorporate the amendment made
29 to s. 768.28, F.S.; providing an effective date.

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

Section 1. Present subsections (1) through (20) of section 768.28, Florida Statutes, are redesignated as subsections (2) through (21), respectively, a new subsection (1) is added to that section, and present subsection (5), paragraphs (a) and (b) of present subsection (9), and paragraph (a) of present subsection (16) of that section are amended, to read:

768.28 Florida Fair Claims Act; waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(1) This section may be cited as the "Florida Fair Claims Act."

(6)~~(5)~~ The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay ~~a claim or a judgment by any one person which exceeds the sum of \$200,000 or~~ any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$500,000 ~~\$300,000~~. However, a judgment or judgments may be claimed and rendered in excess of this amount ~~these amounts and may be settled and paid pursuant to this act~~ up to \$500,000 ~~\$200,000 or \$300,000, as the case may be;~~ and

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59 that portion of the judgment that exceeds this amount ~~these~~
60 ~~amounts~~ may be reported to the Legislature, but may be paid in
61 part or in whole only by further act of the Legislature.
62 Notwithstanding the limited waiver of sovereign immunity
63 provided herein, the state or an agency or subdivision thereof
64 may agree, ~~within the limits of insurance coverage provided,~~ to
65 settle a claim made or a judgment rendered against it in excess
66 of \$500,000 without further action by the Legislature., ~~but~~ The
67 state or agency or subdivision thereof may ~~shall~~ not be deemed
68 to have waived any defense of sovereign immunity or to have
69 increased the limits of its liability as a result of its
70 obtaining insurance coverage for tortious acts in excess of the
71 \$500,000 ~~\$200,000 or \$300,000~~ waiver provided above. The
72 limitations of liability set forth in this subsection shall
73 apply to the state and its agencies and subdivisions whether or
74 not the state or its agencies or subdivisions possessed
75 sovereign immunity before July 1, 1974.

76
77 Beginning July 1, 2021, and every July 1 thereafter, the
78 limitations of liability in this subsection shall be adjusted to
79 reflect changes in the Consumer Price Index for the Southeast or
80 a successor index as calculated by the United States Department
81 of Labor. When determining liability limits for a claim, the
82 limitations of liability in effect on the date a final judgment
83 is entered apply to the claim.

84 ~~(10)-(9)~~(a) No officer, employee, or agent of the state or
85 of any of its subdivisions shall be held personally liable in
86 tort or named as a party defendant in any action for any injury
87 or damage suffered as a result of any act, event, or omission of

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88 action in the scope of her or his employment or function, unless
89 such officer, employee, or agent acted in bad faith or with
90 malicious purpose or in a manner exhibiting wanton and willful
91 disregard of human rights, safety, or property. However, such
92 officer, employee, or agent shall be considered an adverse
93 witness in a tort action for any injury or damage suffered as a
94 result of any act, event, or omission of action in the scope of
95 her or his employment or function. The exclusive remedy for
96 injury or damage suffered as a result of an act, event, or
97 omission of an officer, employee, or agent of the state or any
98 of its subdivisions or constitutional officers shall be by
99 action against the governmental entity, or the head of such
100 entity in her or his official capacity, or the constitutional
101 officer of which the officer, employee, or agent is an employee,
102 unless such act or omission was committed in bad faith or with
103 malicious purpose or in a manner exhibiting wanton and willful
104 disregard of human rights, safety, or property. The state or its
105 subdivisions shall not be liable in tort for the acts or
106 omissions of an officer, employee, or agent committed while
107 acting outside the course and scope of her or his employment or
108 committed in bad faith or with malicious purpose or in a manner
109 exhibiting wanton and willful disregard of human rights, safety,
110 or property.

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

112 1. "Employee" includes any volunteer firefighter.

113 2. "Officer, employee, or agent" includes, but is not
114 limited to, any health care provider when providing services
115 pursuant to s. 766.1115; any nonprofit independent college or
116 university located and chartered in this state which owns or

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117 operates an accredited medical school, and its employees or
118 agents, when providing patient services pursuant to paragraph
119 (11) (f) ~~(10) (f)~~; and any public defender or her or his employee
120 or agent, including, among others, an assistant public defender
121 and an investigator.

122 (17) (16) (a) The state and its agencies and subdivisions are
123 authorized to be self-insured, to enter into risk management
124 programs, or to purchase liability insurance for whatever
125 coverage they may choose, or to have any combination thereof, in
126 anticipation of any claim, judgment, and claim ~~claims~~ bill which
127 they may be liable to pay pursuant to this section. Agencies or
128 subdivisions, and sheriffs, that are subject to homogeneous
129 risks may purchase insurance jointly or may join together as
130 self-insurers to provide other means of protection against tort
131 claims, any charter provisions or laws to the contrary
132 notwithstanding. An insurance policy may not condition the
133 payment of benefits, in whole or in part, on the enactment of
134 claim bills.

135 Section 2. Paragraph (b) of subsection (2) of section
136 29.0081, Florida Statutes, is amended to read:

137 29.0081 County funding of additional court personnel.-

138 (2) The agreement shall, at a minimum, provide that:

139 (b) The personnel whose employment is funded under the
140 agreement are hired, supervised, managed, and fired by personnel
141 of the judicial circuit. The county shall be considered the
142 employer for purposes of s. 440.10 and chapter 443. Employees
143 funded by the county under this section and other county
144 employees may be aggregated for purposes of a flexible benefits
145 plan pursuant to s. 125 of the Internal Revenue Code of 1986.

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146 The judicial circuit shall supervise the personnel whose
147 employment is funded under the agreement; be responsible for
148 compliance with all requirements of federal and state employment
149 laws, including, but not limited to, Title VII of the Civil
150 Rights Act of 1964, Title I of the Americans with Disabilities
151 Act, 42 U.S.C. s. 1983, the Family Medical Leave Act, the Fair
152 Labor Standards Act, chapters 447 and 760, and ss. 112.3187,
153 440.105, and 440.205; and fully indemnify the county from any
154 liability under such laws, as authorized by s. 768.28(20) ~~s.~~
155 ~~768.28(19)~~, to the extent such liability is the result of the
156 acts or omissions of the judicial circuit or its agents or
157 employees.

158 Section 3. Paragraph (b) of subsection (2) of section
159 39.8297, Florida Statutes, is amended to read:

160 39.8297 County funding for guardian ad litem employees.—

161 (2) The agreement, at a minimum, must provide that:

162 (b) The persons who are employed will be hired, supervised,
163 managed, and terminated by the executive director of the
164 Statewide Guardian Ad Litem Office. The statewide office is
165 responsible for compliance with all requirements of federal and
166 state employment laws, and shall fully indemnify the county from
167 any liability under such laws, as authorized by s. 768.28(20) ~~s.~~
168 ~~768.28(19)~~, to the extent such liability is the result of the
169 acts or omissions of the Statewide Guardian Ad Litem Office or
170 its agents or employees.

171 Section 4. Paragraph (h) of subsection (3) of section
172 163.01, Florida Statutes, is amended to read:

173 163.01 Florida Interlocal Cooperation Act of 1969.—

174 (3) As used in this section:

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175 (h) "Local government liability pool" means a reciprocal
176 insurer as defined in s. 629.021 or any self-insurance program
177 created pursuant to s. 768.28(17) ~~s. 768.28(16)~~, formed and
178 controlled by counties or municipalities of this state to
179 provide liability insurance coverage for counties,
180 municipalities, or other public agencies of this state, which
181 pool may contract with other parties for the purpose of
182 providing claims administration, processing, accounting, and
183 other administrative facilities.

184 Section 5. Paragraph (1) of subsection (5) of section
185 252.36, Florida Statutes, is amended to read:

186 252.36 Emergency management powers of the Governor.—

187 (5) In addition to any other powers conferred upon the
188 Governor by law, she or he may:

189 (1) Authorize the use of forces already mobilized as the
190 result of an executive order, rule, or proclamation to assist
191 the private citizens of the state in cleanup and recovery
192 operations during emergencies when proper permission to enter
193 onto or into private property has been obtained from the
194 property owner. The provisions of s. 768.28(10) ~~s. 768.28(9)~~
195 apply to this paragraph.

196 Section 6. Subsection (2) of section 260.0125, Florida
197 Statutes, is amended to read:

198 260.0125 Limitation on liability of private landowners
199 whose property is designated as part of the statewide system of
200 greenways and trails.—

201 (2) Any private landowner who consents to designation of
202 his or her land as part of the statewide system of greenways and
203 trails pursuant to s. 260.016(2) (d) without compensation shall

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204 be considered a volunteer, as defined in s. 110.501, and shall
205 be covered by state liability protection pursuant to s. 768.28,
206 including s. 768.28(10) ~~s. 768.28(9)~~.

207 Section 7. Subsection (2) and paragraph (g) of subsection
208 (10) of section 288.9625, Florida Statutes, are amended to read:
209 288.9625 Institute for Commercialization of Florida
210 Technology.—

211 (2) The purpose of the institute is to assist, without any
212 financial support or specific appropriations from the state, in
213 the commercialization of products developed by the research and
214 development activities of an innovation business, including, but
215 not limited to, those defined in s. 288.1089. The institute
216 shall fulfill its purpose in the best interests of the state.

217 The institute:

218 (a) Is a corporation primarily acting as an instrumentality
219 of the state pursuant to s. 768.28(3) ~~s. 768.28(2)~~, for the
220 purposes of sovereign immunity;

221 (b) Is not an agency within the meaning of s. 20.03(11);

222 (c) Is subject to the open records and meetings
223 requirements of s. 24, Art. I of the State Constitution, chapter
224 119, and s. 286.011;

225 (d) Is not subject to chapter 287;

226 (e) Is governed by the code of ethics for public officers
227 and employees as set forth in part III of chapter 112;

228 (f) May create corporate subsidiaries; and

229 (g) May not receive any financial support or specific
230 appropriations from the state.

231 (10) The private fund manager:

232 (g) Is not a corporation primarily acting as an

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233 instrumentality of the state pursuant to s. 768.28(3) ~~s.~~
234 ~~768.28(2)~~, for the purposes of sovereign immunity.

235 Section 8. Section 316.6146, Florida Statutes, is amended
236 to read:

237 316.6146 Transportation of private school students on
238 public school buses and public school students on private school
239 buses; agreement.—Private school students may be transported on
240 public school buses and public school students may be
241 transported on private school buses when there is mutual
242 agreement between the local school board and the applicable
243 private school. Any agreement for private school students to be
244 transported on public school buses must be in accordance with
245 ss. 768.28(10)(a) ~~ss. 768.28(9)(a)~~ and 316.6145. Any agreement
246 for public school students to be transported on private school
247 buses must be contingent on the private school bus driver's
248 having adequate liability insurance through his or her employer.

249 Section 9. Subsection (5) of section 321.24, Florida
250 Statutes, is amended to read:

251 321.24 Members of an auxiliary to Florida Highway Patrol.—

252 (5) Notwithstanding any other law to the contrary, any
253 volunteer highway patrol troop surgeon appointed by the director
254 of the Florida Highway Patrol and any volunteer licensed health
255 professional appointed by the director of the Florida Highway
256 Patrol to work under the medical direction of a highway patrol
257 troop surgeon is considered an employee for purposes of s.
258 768.28(10) ~~s. 768.28(9)~~.

259 Section 10. Subsection (1) of section 324.022, Florida
260 Statutes, is amended to read:

261 324.022 Financial responsibility for property damage.—

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262 (1) Every owner or operator of a motor vehicle required to
263 be registered in this state shall establish and maintain the
264 ability to respond in damages for liability on account of
265 accidents arising out of the use of the motor vehicle in the
266 amount of \$10,000 because of damage to, or destruction of,
267 property of others in any one crash. The requirements of this
268 section may be met by one of the methods established in s.
269 324.031; by self-insuring as authorized by s. 768.28(17) ~~s.~~
270 ~~768.28(16)~~; or by maintaining an insurance policy providing
271 coverage for property damage liability in the amount of at least
272 \$10,000 because of damage to, or destruction of, property of
273 others in any one accident arising out of the use of the motor
274 vehicle. The requirements of this section may also be met by
275 having a policy which provides coverage in the amount of at
276 least \$30,000 for combined property damage liability and bodily
277 injury liability for any one crash arising out of the use of the
278 motor vehicle. The policy, with respect to coverage for property
279 damage liability, must meet the applicable requirements of s.
280 324.151, subject to the usual policy exclusions that have been
281 approved in policy forms by the Office of Insurance Regulation.
282 No insurer shall have any duty to defend uncovered claims
283 irrespective of their joinder with covered claims.

284 Section 11. Subsection (9) of section 381.0056, Florida
285 Statutes, is amended to read:

286 381.0056 School health services program.—

287 (9) Any health care entity that provides school health
288 services under contract with the department pursuant to a school
289 health services plan developed under this section, and as part
290 of a school nurse services public-private partnership, is deemed

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291 to be a corporation acting primarily as an instrumentality of
292 the state solely for the purpose of limiting liability pursuant
293 to s. 768.28(6) ~~s. 768.28(5)~~. The limitations on tort actions
294 contained in s. 768.28(6) ~~s. 768.28(5)~~ shall apply to any action
295 against the entity with respect to the provision of school
296 health services, if the entity is acting within the scope of and
297 pursuant to guidelines established in the contract or by rule of
298 the department. The contract must require the entity, or the
299 partnership on behalf of the entity, to obtain general liability
300 insurance coverage, with any additional endorsement necessary to
301 insure the entity for liability assumed by its contract with the
302 department. The Legislature intends that insurance be purchased
303 by entities, or by partnerships on behalf of the entity, to
304 cover all liability claims, and under no circumstances shall the
305 state or the department be responsible for payment of any claims
306 or defense costs for claims brought against the entity or its
307 subcontractor for services performed under the contract with the
308 department. This subsection does not preclude consideration by
309 the Legislature for payment by the state of any claim ~~claims~~
310 bill involving an entity contracting with the department
311 pursuant to this section.

312 Section 12. Subsection (4) of section 403.0862, Florida
313 Statutes, is amended to read:

314 403.0862 Discharge of waste from state groundwater cleanup
315 operations to publicly owned treatment works.—

316 (4) The limitation on damages provided by s. 768.28(6) ~~s.~~
317 ~~768.28(5)~~ shall not apply to any obligation or payment which may
318 become due under this section.

319 Section 13. Paragraph (a) of subsection (2) of section

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320 456.048, Florida Statutes, is amended to read:

321 456.048 Financial responsibility requirements for certain
322 health care practitioners.—

323 (2) The board or department may grant exemptions upon
324 application by practitioners meeting any of the following
325 criteria:

326 (a) Any person licensed under chapter 457, s. 458.3475, s.
327 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or
328 chapter 467 who practices exclusively as an officer, employee,
329 or agent of the Federal Government or of the state or its
330 agencies or its subdivisions. For the purposes of this
331 subsection, an agent of the state, its agencies, or its
332 subdivisions is a person who is eligible for coverage under any
333 self-insurance or insurance program authorized by the provisions
334 of s. 768.28(17) ~~s. 768.28(16)~~ or who is a volunteer under s.
335 110.501(1).

336 Section 14. Paragraph (a) of subsection (5) of section
337 458.320, Florida Statutes, is amended to read:

338 458.320 Financial responsibility.—

339 (5) The requirements of subsections (1), (2), and (3) do
340 not apply to:

341 (a) Any person licensed under this chapter who practices
342 medicine exclusively as an officer, employee, or agent of the
343 Federal Government or of the state or its agencies or its
344 subdivisions. For the purposes of this subsection, an agent of
345 the state, its agencies, or its subdivisions is a person who is
346 eligible for coverage under any self-insurance or insurance
347 program authorized by the provisions of s. 768.28(17) ~~s.~~
348 ~~768.28(16)~~.

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349 Section 15. Paragraph (a) of subsection (5) of section
350 459.0085, Florida Statutes, is amended to read:

351 459.0085 Financial responsibility.—

352 (5) The requirements of subsections (1), (2), and (3) do
353 not apply to:

354 (a) Any person licensed under this chapter who practices
355 medicine exclusively as an officer, employee, or agent of the
356 Federal Government or of the state or its agencies or its
357 subdivisions. For the purposes of this subsection, an agent of
358 the state, its agencies, or its subdivisions is a person who is
359 eligible for coverage under any self-insurance or insurance
360 program authorized by the provisions of s. 768.28(17) ~~s.~~
361 ~~768.28(16)~~.

362 Section 16. Paragraph (e) of subsection (4) of section
363 589.19, Florida Statutes, is amended to read:

364 589.19 Creation of certain state forests; naming of certain
365 state forests; Operation Outdoor Freedom Program.—

366 (4)

367 (e)1. A private landowner who provides land for designation
368 and use as an Operation Outdoor Freedom Program hunting site
369 shall have limited liability pursuant to s. 375.251.

370 2. A private landowner who consents to the designation and
371 use of land as part of the Operation Outdoor Freedom Program
372 without compensation shall be considered a volunteer, as defined
373 in s. 110.501, and shall be covered by state liability
374 protection pursuant to s. 768.28, including s. 768.28(10) ~~s.~~
375 ~~768.28(9)~~.

376 3. This subsection does not:

377 a. Relieve any person of liability that would otherwise

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378 exist for deliberate, willful, or malicious injury to persons or
379 property.

380 b. Create or increase the liability of any person.

381 Section 17. Paragraph (c) of subsection (9) of section
382 616.242, Florida Statutes, is amended to read:

383 616.242 Safety standards for amusement rides.—

384 (9) INSURANCE REQUIREMENTS.—

385 (c) The insurance requirements imposed under this
386 subsection do not apply to a governmental entity that is covered
387 by the provisions of s. 768.28(17) ~~s. 768.28(16)~~.

388 Section 18. Section 624.461, Florida Statutes, is amended
389 to read:

390 624.461 Definition.—For the purposes of the Florida
391 Insurance Code, "self-insurance fund" means both commercial
392 self-insurance funds organized under s. 624.462 and group self-
393 insurance funds organized under s. 624.4621. The term "self-
394 insurance fund" does not include a governmental self-insurance
395 pool created under s. 768.28(17) ~~s. 768.28(16)~~.

396 Section 19. Subsection (6) of section 624.462, Florida
397 Statutes, is amended to read:

398 624.462 Commercial self-insurance funds.—

399 (6) A governmental self-insurance pool created pursuant to
400 s. 768.28(17) ~~s. 768.28(16)~~ shall not be considered a commercial
401 self-insurance fund.

402 Section 20. Paragraph (b) of subsection (3) of section
403 627.733, Florida Statutes, is amended to read:

404 627.733 Required security.—

405 (3) Such security shall be provided:

406 (b) By any other method authorized by s. 324.031(2) or (3)

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407 and approved by the Department of Highway Safety and Motor
408 Vehicles as affording security equivalent to that afforded by a
409 policy of insurance or by self-insuring as authorized by s.
410 768.28(17) ~~s. 768.28(16)~~. The person filing such security shall
411 have all of the obligations and rights of an insurer under ss.
412 627.730-627.7405.

413 Section 21. Subsection (5) of section 760.11, Florida
414 Statutes, is amended to read:

415 760.11 Administrative and civil remedies; construction.—

416 (5) In any civil action brought under this section, the
417 court may issue an order prohibiting the discriminatory practice
418 and providing affirmative relief from the effects of the
419 practice, including back pay. The court may also award
420 compensatory damages, including, but not limited to, damages for
421 mental anguish, loss of dignity, and any other intangible
422 injuries, and punitive damages. The provisions of ss. 768.72 and
423 768.73 do not apply to this section. The judgment for the total
424 amount of punitive damages awarded under this section to an
425 aggrieved person shall not exceed \$100,000. In any action or
426 proceeding under this subsection, the court, in its discretion,
427 may allow the prevailing party a reasonable attorney ~~attorney's~~
428 fee as part of the costs. It is the intent of the Legislature
429 that this provision for attorney ~~attorney's~~ fees be interpreted
430 in a manner consistent with federal case law involving a Title
431 VII action. The right to trial by jury is preserved in any such
432 private right of action in which the aggrieved person is seeking
433 compensatory or punitive damages, and any party may demand a
434 trial by jury. The commission's determination of reasonable
435 cause is not admissible into evidence in any civil proceeding,

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436 including any hearing or trial, except to establish for the
437 court the right to maintain the private right of action. A civil
438 action brought under this section shall be commenced no later
439 than 1 year after the date of determination of reasonable cause
440 by the commission. The commencement of such action shall divest
441 the commission of jurisdiction of the complaint, except that the
442 commission may intervene in the civil action as a matter of
443 right. Notwithstanding the above, the state and its agencies and
444 subdivisions shall not be liable for punitive damages. The total
445 amount of recovery against the state and its agencies and
446 subdivisions shall not exceed the limitation as set forth in s.
447 768.28(6) ~~s. 768.28(5)~~.

448 Section 22. Subsection (4) and paragraphs (a) and (b) of
449 subsection (12) of section 766.1115, Florida Statutes, are
450 amended to read:

451 766.1115 Health care providers; creation of agency
452 relationship with governmental contractors.-

453 (4) CONTRACT REQUIREMENTS.-A health care provider that
454 executes a contract with a governmental contractor to deliver
455 health care services on or after April 17, 1992, as an agent of
456 the governmental contractor is an agent for purposes of s.
457 768.28(10) ~~s. 768.28(9)~~, while acting within the scope of duties
458 under the contract, if the contract complies with the
459 requirements of this section and regardless of whether the
460 individual treated is later found to be ineligible. A health
461 care provider shall continue to be an agent for purposes of s.
462 768.28(10) ~~s. 768.28(9)~~ for 30 days after a determination of
463 ineligibility to allow for treatment until the individual
464 transitions to treatment by another health care provider. A

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465 health care provider under contract with the state may not be
466 named as a defendant in any action arising out of medical care
467 or treatment provided on or after April 17, 1992, under
468 contracts entered into under this section. The contract must
469 provide that:

470 (a) The right of dismissal or termination of any health
471 care provider delivering services under the contract is retained
472 by the governmental contractor.

473 (b) The governmental contractor has access to the patient
474 records of any health care provider delivering services under
475 the contract.

476 (c) Adverse incidents and information on treatment outcomes
477 must be reported by any health care provider to the governmental
478 contractor if the incidents and information pertain to a patient
479 treated under the contract. The health care provider shall
480 submit the reports required by s. 395.0197. If an incident
481 involves a professional licensed by the Department of Health or
482 a facility licensed by the Agency for Health Care
483 Administration, the governmental contractor shall submit such
484 incident reports to the appropriate department or agency, which
485 shall review each incident and determine whether it involves
486 conduct by the licensee that is subject to disciplinary action.
487 All patient medical records and any identifying information
488 contained in adverse incident reports and treatment outcomes
489 which are obtained by governmental entities under this paragraph
490 are confidential and exempt from the provisions of s. 119.07(1)
491 and s. 24(a), Art. I of the State Constitution.

492 (d) Patient selection and initial referral must be made by
493 the governmental contractor or the provider. Patients may not be

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494 transferred to the provider based on a violation of the
495 antidumping provisions of the Omnibus Budget Reconciliation Act
496 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
497 chapter 395.

498 (e) If emergency care is required, the patient need not be
499 referred before receiving treatment, but must be referred within
500 48 hours after treatment is commenced or within 48 hours after
501 the patient has the mental capacity to consent to treatment,
502 whichever occurs later.

503 (f) The provider is subject to supervision and regular
504 inspection by the governmental contractor.

505 (g) As an agent of the governmental contractor for purposes
506 of s. 768.28(10) ~~s. 768.28(9)~~, while acting within the scope of
507 duties under the contract, a health care provider licensed under
508 chapter 466 may allow a patient, or a parent or guardian of the
509 patient, to voluntarily contribute a monetary amount to cover
510 costs of dental laboratory work related to the services provided
511 to the patient. This contribution may not exceed the actual cost
512 of the dental laboratory charges.

513
514 A governmental contractor that is also a health care provider is
515 not required to enter into a contract under this section with
516 respect to the health care services delivered by its employees.

517 (12) APPLICABILITY.—This section applies to incidents
518 occurring on or after April 17, 1992. This section does not:

519 (a) Apply to any health care contract entered into by the
520 Department of Corrections which is subject to s. 768.28(11)(a)
521 ~~s. 768.28(10)(a)~~.

522 (b) Apply to any affiliation agreement or other contract

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523 that is subject to s. 768.28(11)(f) ~~s. 768.28(10)(f)~~.

524 Section 23. Paragraph (c) of subsection (6) of section
525 766.118, Florida Statutes, is amended to read:

526 766.118 Determination of noneconomic damages.—

527 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A
528 PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID
529 RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with
530 respect to a cause of action for personal injury or wrongful
531 death arising from medical negligence of a practitioner
532 committed in the course of providing medical services and
533 medical care to a Medicaid recipient, regardless of the number
534 of such practitioner defendants providing the services and care,
535 noneconomic damages may not exceed \$300,000 per claimant, unless
536 the claimant pleads and proves, by clear and convincing
537 evidence, that the practitioner acted in a wrongful manner. A
538 practitioner providing medical services and medical care to a
539 Medicaid recipient is not liable for more than \$200,000 in
540 noneconomic damages, regardless of the number of claimants,
541 unless the claimant pleads and proves, by clear and convincing
542 evidence, that the practitioner acted in a wrongful manner. The
543 fact that a claimant proves that a practitioner acted in a
544 wrongful manner does not preclude the application of the
545 limitation on noneconomic damages prescribed elsewhere in this
546 section. For purposes of this subsection:

547 (c) The term "wrongful manner" means in bad faith or with
548 malicious purpose or in a manner exhibiting wanton and willful
549 disregard of human rights, safety, or property, and shall be
550 construed in conformity with the standard set forth in s.
551 768.28(10)(a) ~~s. 768.28(9)(a)~~.

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552 Section 24. Paragraph (c) of subsection (2) of section
553 768.1315, Florida Statutes, is amended to read:

554 768.1315 Good Samaritan Volunteer Firefighters' Assistance
555 Act; immunity from civil liability.—

556 (2) DEFINITIONS.—As used in this section, the term:

557 (c) "State agency or subdivision" shall have the meaning
558 provided in s. 768.28(3) ~~s. 768.28(2)~~.

559

560 Nothing in this section shall be construed as a waiver of
561 sovereign immunity.

562 Section 25. Subsection (4) of section 768.135, Florida
563 Statutes, is amended to read:

564 768.135 Volunteer team physicians; immunity.—

565 (4) As used in this section, the term "wrongful manner"
566 means in bad faith or with malicious purpose or in a manner
567 exhibiting wanton and willful disregard of human rights, safety,
568 or property, and shall be construed in conformity with the
569 standard set forth in s. 768.28(10)(a) ~~s. 768.28(9)(a)~~.

570 Section 26. Subsection (2) of section 944.713, Florida
571 Statutes, is amended to read:

572 944.713 Insurance against liability.—

573 (2) The contract shall provide for indemnification of the
574 state by the private vendor for any liabilities incurred up to
575 the limits provided under s. 768.28(6) ~~s. 768.28(5)~~. The
576 contract shall provide that the private vendor, or the insurer
577 of the private vendor, is liable to pay any claim or judgment
578 for any one person which does not exceed the sum of \$100,000 or
579 any claim or judgment, or portions thereof, which, when totaled
580 with all other claims or judgments arising out of the same

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581 incident or occurrence, does not exceed the sum of \$200,000. In
582 addition, the contractor must agree to defend, hold harmless,
583 and indemnify the department against any and all actions,
584 claims, damages and losses, including costs and attorney
585 ~~attorney's~~ fees.

586 Section 27. Subsection (3) of section 984.09, Florida
587 Statutes, is amended to read:

588 984.09 Punishment for contempt of court; alternative
589 sanctions.—

590 (3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have
591 an alternative sanctions coordinator who shall serve under the
592 chief administrative judge of the juvenile division of the
593 circuit court, and who shall coordinate and maintain a spectrum
594 of contempt sanction alternatives in conjunction with the
595 circuit plan implemented in accordance with s. 790.22(4)(c).
596 Upon determining that a child has committed direct contempt of
597 court or indirect contempt of a valid court order, the court may
598 immediately request the alternative sanctions coordinator to
599 recommend the most appropriate available alternative sanction
600 and shall order the child to perform up to 50 hours of
601 community-service manual labor or a similar alternative
602 sanction, unless an alternative sanction is unavailable or
603 inappropriate, or unless the child has failed to comply with a
604 prior alternative sanction. Alternative contempt sanctions may
605 be provided by local industry or by any nonprofit organization
606 or any public or private business or service entity that has
607 entered into a contract with the Department of Juvenile Justice
608 to act as an agent of the state to provide voluntary supervision
609 of children on behalf of the state in exchange for the manual

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610 labor of children and limited immunity in accordance with s.
611 768.28(12) ~~s. 768.28(11)~~.

612 Section 28. Subsection (3) of section 985.037, Florida
613 Statutes, is amended to read:

614 985.037 Punishment for contempt of court; alternative
615 sanctions.—

616 (3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have
617 an alternative sanctions coordinator who shall serve under the
618 chief administrative judge of the juvenile division of the
619 circuit court, and who shall coordinate and maintain a spectrum
620 of contempt sanction alternatives in conjunction with the
621 circuit plan implemented in accordance with s. 790.22(4)(c).
622 Upon determining that a child has committed direct contempt of
623 court or indirect contempt of a valid court order, the court may
624 immediately request the alternative sanctions coordinator to
625 recommend the most appropriate available alternative sanction
626 and shall order the child to perform up to 50 hours of
627 community-service manual labor or a similar alternative
628 sanction, unless an alternative sanction is unavailable or
629 inappropriate, or unless the child has failed to comply with a
630 prior alternative sanction. Alternative contempt sanctions may
631 be provided by local industry or by any nonprofit organization
632 or any public or private business or service entity that has
633 entered into a contract with the Department of Juvenile Justice
634 to act as an agent of the state to provide voluntary supervision
635 of children on behalf of the state in exchange for the manual
636 labor of children and limited immunity in accordance with s.
637 768.28(12) ~~s. 768.28(11)~~.

638 Section 29. Paragraph (1) of subsection (3) of section

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639 1002.55, Florida Statutes, is amended to read:

640 1002.55 School-year prekindergarten program delivered by
641 private prekindergarten providers.—

642 (3) To be eligible to deliver the prekindergarten program,
643 a private prekindergarten provider must meet each of the
644 following requirements:

645 (1) Notwithstanding paragraph (j), for a private
646 prekindergarten provider that is a state agency or a subdivision
647 thereof, as defined in s. 768.28(3) ~~s. 768.28(2)~~, the provider
648 must agree to notify the coalition of any additional liability
649 coverage maintained by the provider in addition to that
650 otherwise established under s. 768.28. The provider shall
651 indemnify the coalition to the extent permitted by s. 768.28.

652 Section 30. Paragraph (p) of subsection (1) of section
653 1002.88, Florida Statutes, is amended to read:

654 1002.88 School readiness program provider standards;
655 eligibility to deliver the school readiness program.—

656 (1) To be eligible to deliver the school readiness program,
657 a school readiness program provider must:

658 (p) Notwithstanding paragraph (m), for a provider that is a
659 state agency or a subdivision thereof, as defined in s.
660 768.28(3) ~~s. 768.28(2)~~, agree to notify the coalition of any
661 additional liability coverage maintained by the provider in
662 addition to that otherwise established under s. 768.28. The
663 provider shall indemnify the coalition to the extent permitted
664 by s. 768.28.

665 Section 31. Paragraph (e) of subsection (4) and paragraph
666 (d) of subsection (5) of section 1004.41, Florida Statutes, are
667 amended to read:

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668 1004.41 University of Florida; J. Hillis Miller Health
669 Center.—

670 (4)

671 (e) Shands Teaching Hospital and Clinics, Inc., in support
672 of the health affairs mission of the University of Florida Board
673 of Trustees and with the board's prior approval, may create or
674 have created either for-profit or not-for-profit subsidiaries
675 and affiliates, or both. The University of Florida Board of
676 Trustees, which may act through the president of the university
677 or his or her designee, may control Shands Teaching Hospital and
678 Clinics, Inc. For purposes of sovereign immunity pursuant to s.
679 768.28(3) ~~s. 768.28(2)~~, Shands Teaching Hospital and Clinics,
680 Inc., and any not-for-profit subsidiary which directly delivers
681 health care services and whose governing board is chaired by the
682 president of the university or his or her designee and is
683 controlled by the University of Florida Board of Trustees, which
684 may act through the president of the university or his or her
685 designee and whose primary purpose is the support of the
686 University of Florida Board of Trustees' health affairs mission,
687 shall be conclusively deemed a corporation primarily acting as
688 an instrumentality of the state.

689 (5)

690 (d) For purposes of sovereign immunity pursuant to s.
691 768.28(3) ~~s. 768.28(2)~~, Shands Jacksonville Medical Center,
692 Inc., Shands Jacksonville HealthCare, Inc., and any not-for-
693 profit subsidiary which directly delivers health care services
694 and whose governing board is chaired by the President of the
695 University of Florida or his or her designee and is controlled
696 by the University of Florida Board of Trustees, which may act

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697 through the president of the university or his or her designee
698 and whose primary purpose is the support of the University of
699 Florida Board of Trustees' health affairs mission, shall be
700 conclusively deemed corporations primarily acting as
701 instrumentalities of the state.

702 Section 32. Subsection (1) of section 1004.43, Florida
703 Statutes, is amended to read:

704 1004.43 H. Lee Moffitt Cancer Center and Research
705 Institute.—There is established the H. Lee Moffitt Cancer Center
706 and Research Institute, a statewide resource for basic and
707 clinical research and multidisciplinary approaches to patient
708 care.

709 (1) The Board of Trustees of the University of South
710 Florida shall enter into a lease agreement for the utilization
711 of the lands and facilities on the campus of the University of
712 South Florida to be known as the H. Lee Moffitt Cancer Center
713 and Research Institute, including all furnishings, equipment,
714 and other chattels used in the operation of such facilities,
715 with a Florida not-for-profit corporation organized solely for
716 the purpose of governing and operating the H. Lee Moffitt Cancer
717 Center and Research Institute. The lease agreement with the not-
718 for-profit corporation shall be rent free as long as the not-
719 for-profit corporation and its subsidiaries utilize the lands
720 and facilities primarily for research, education, treatment,
721 prevention, and early detection of cancer or for teaching and
722 research programs conducted by state universities or other
723 accredited medical schools or research institutes. The lease
724 agreement shall provide for review of construction plans and
725 specifications by the University of South Florida for

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726 consistency with the university's campus master plan, impact on
727 the university's utilities infrastructure, compliance with
728 applicable building codes and general design characteristics,
729 and compatibility with university architecture, as appropriate.
730 The not-for-profit corporation may, with the prior approval of
731 the Board of Governors, create either for-profit or not-for-
732 profit corporate subsidiaries, or both, to fulfill its mission.
733 The not-for-profit corporation and any approved not-for-profit
734 subsidiary shall be conclusively deemed corporations primarily
735 acting as instrumentalities of the state, pursuant to s.
736 768.28(3) ~~s. 768.28(2)~~, for purposes of sovereign immunity. For-
737 profit subsidiaries of the not-for-profit corporation may not
738 compete with for-profit health care providers in the delivery of
739 radiation therapy services to patients. The not-for-profit
740 corporation and its subsidiaries are authorized to receive,
741 hold, invest, and administer property and any moneys received
742 from private, local, state, and federal sources, as well as
743 technical and professional income generated or derived from
744 practice activities of the institute, for the benefit of the
745 institute and the fulfillment of its mission. The affairs of the
746 corporation shall be managed by a board of directors who shall
747 serve without compensation. The President of the University of
748 South Florida and the chair of the Board of Governors, or his or
749 her designee, shall be directors of the not-for-profit
750 corporation. Each director shall have only one vote, shall serve
751 a term of 3 years, and may be reelected to the board. Other than
752 the President of the University of South Florida and the chair
753 of the Board of Governors, directors shall be elected by a
754 majority vote of the board. The chair of the board of directors

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755 shall be selected by majority vote of the directors.

756 Section 33. Paragraph (a) of subsection (2) of section
757 1004.447, Florida Statutes, is amended to read:

758 1004.447 Florida Institute for Human and Machine Cognition,
759 Inc.—

760 (2) The corporation and any authorized and approved
761 subsidiary:

762 (a) Shall be a corporation primarily acting as an
763 instrumentality of the state, pursuant to s. 768.28(3) ~~s.~~
764 ~~768.28(2)~~, for purposes of sovereign immunity.

765 Section 34. Paragraph (b) of subsection (2) of section
766 1006.261, Florida Statutes, is amended to read:

767 1006.261 Use of school buses for public purposes.—

768 (2)

769 (b) For purposes of liability for negligence, state
770 agencies or subdivisions as defined in s. 768.28(3) ~~s. 768.28(2)~~
771 shall be covered by s. 768.28. Every other corporation or
772 organization shall provide liability insurance coverage in the
773 minimum amounts of \$100,000 on any claim or judgment and
774 \$200,000 on all claims and judgments arising from the same
775 incident or occurrence.

776 Section 35. Sections 45.061, 110.504, 111.071,
777 163.01(15)(k), 190.043, 213.015, 284.31, 284.38, 337.19,
778 341.302, 373.1395, 375.251, 393.075, 403.706, 409.993, 455.221,
779 455.32, 456.009, 472.006, 497.167, 548.046, 556.106, 768.295,
780 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.77,
781 and 1002.83, Florida Statutes, are reenacted for the purpose of
782 incorporating the amendment made by this act to s. 768.28,
783 Florida Statutes, in references thereto.

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Section 36. This act shall take effect October 1, 2020.