



368554

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2022	.	
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The Committee on Community Affairs (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (5), paragraph (a) of subsection (6),  
and subsection (14) of section 768.28, Florida Statutes, are  
amended to read:

768.28 Waiver of sovereign immunity in tort actions;  
recovery limits; civil liability for damages caused during a  
riot; limitation on attorney fees; statute of limitations;



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11 exclusions; indemnification; risk management programs.-

12 (5) (a) The state and its agencies and subdivisions are  
13 ~~shall be~~ liable for tort claims in the same manner and to the  
14 same extent as a private individual under like circumstances,  
15 but liability does ~~shall~~ not include punitive damages or  
16 interest for the period before judgment. ~~Neither~~ The state, ~~nor~~  
17 its agencies, and its ~~or~~ subdivisions are not ~~shall be~~ liable to  
18 pay a claim or a judgment by any one person which exceeds the  
19 sum of \$1 million ~~\$200,000~~ or any claim or judgment, or portions  
20 thereof, which, when totaled with all other claims or judgments  
21 paid by the state or its agencies or subdivisions arising out of  
22 the same incident or occurrence, exceeds the sum of \$3 million  
23 ~~\$300,000~~. However, a judgment or judgments may be claimed and  
24 rendered in excess of these amounts and may be settled and paid  
25 pursuant to this section ~~act~~ up to \$1 million or \$3 million, as  
26 applicable. The ~~\$200,000 or \$300,000, as the case may be; and~~  
27 ~~that~~ portion of the judgment that exceeds these amounts may be  
28 reported to the Legislature, but may be paid in part or in whole  
29 only by further act of the Legislature.

30 (b) Notwithstanding the limited waiver of sovereign  
31 immunity provided in paragraph (a), a ~~herein, the state or an~~  
32 ~~agency or~~ subdivision of the state ~~thereof~~ may agree, ~~within the~~  
33 ~~limits of insurance coverage provided,~~ to settle a claim made or  
34 a judgment rendered against it in excess of the waiver provided  
35 in paragraph (a) without further action by the Legislature, ~~but~~  
36 The state or an agency or a subdivision thereof may ~~shall~~ not be  
37 deemed to have waived any defense of sovereign immunity or to  
38 have increased the limits of its liability as a result of its  
39 obtaining insurance coverage for tortious acts in excess of the



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40 ~~\$200,000 or \$300,000~~ waiver provided in paragraph (a) above. An  
41 insurance policy may not condition the payment of benefits, in  
42 whole or in part, on the enactment of a claim bill.

43 (c) The limitations of liability set forth in this  
44 subsection shall apply to the state and its agencies and  
45 subdivisions whether or not the state or its agencies or  
46 subdivisions possessed sovereign immunity before July 1, 1974.

47 (d) Beginning January 1, 2023, and on January 1 every 10  
48 years thereafter, the Department of Financial Services shall  
49 adjust the limitations of liability in this subsection, rounded  
50 to the nearest \$10,000, to reflect changes in the Consumer Price  
51 Index for the Southeast or a successor index as calculated by  
52 the United States Department of Labor. After each adjustment,  
53 the department must publish the adjusted liability limitation  
54 amounts on its website.

55 (e) ~~(b)~~ A municipality has a duty to allow the municipal law  
56 enforcement agency to respond appropriately to protect persons  
57 and property during a riot or an unlawful assembly based on the  
58 availability of adequate equipment to its municipal law  
59 enforcement officers and relevant state and federal laws. If the  
60 governing body of a municipality or a person authorized by the  
61 governing body of the municipality breaches that duty, the  
62 municipality is civilly liable for any damages, including  
63 damages arising from personal injury, wrongful death, or  
64 property damages proximately caused by the municipality's breach  
65 of duty. The sovereign immunity recovery limits in paragraph (a)  
66 do not apply to an action under this paragraph.

67 (6) (a) An action may not be instituted on a claim against  
68 the state or one of its agencies or subdivisions unless the



69 claimant presents the claim in writing to the appropriate  
70 agency, and also, except as to any claim against a municipality,  
71 county, or the Florida Space Authority, presents such claim in  
72 writing to the Department of Financial Services, within 3 years  
73 after such claim accrues and the Department of Financial  
74 Services or the appropriate agency denies the claim in writing;  
75 except that, if:

76 1. Such claim is for contribution pursuant to s. 768.31, it  
77 must be so presented within 6 months after the judgment against  
78 the tortfeasor seeking contribution has become final by lapse of  
79 time for appeal or after appellate review or, if there is no  
80 such judgment, within 6 months after the tortfeasor seeking  
81 contribution has either discharged the common liability by  
82 payment or agreed, while the action is pending against her or  
83 him, to discharge the common liability; ~~or~~

84 2. Such action is for wrongful death, the claimant must  
85 present the claim in writing to the Department of Financial  
86 Services within 2 years after the claim accrues; or

87 3. Such action arises from a violation of s. 794.011  
88 involving a victim who was younger than the age of 16 at the  
89 time of the act, the claimant may present the claim in writing  
90 at any time pursuant to s. 95.11(9).

91 (14) Every claim against the state or one of its agencies  
92 or subdivisions for damages for a negligent or wrongful act or  
93 omission pursuant to this section shall be forever barred unless  
94 the civil action is commenced by filing a complaint in the court  
95 of appropriate jurisdiction within 4 years after such claim  
96 accrues; except that:

97 (a) An action for contribution must be commenced within the



98 limitations provided in s. 768.31(4); ~~and~~

99       **(b)** An action for damages arising from medical malpractice  
100 or wrongful death must be commenced within the limitations for  
101 such actions in s. 95.11(4); and

102       **(c)** An action arising from acts constituting a violation of  
103 s. 794.011 involving a victim who was younger than the age of 16  
104 at the time of the act may be commenced at any time pursuant to  
105 s. 95.11(9). This paragraph applies only to claims that would  
106 not have been time barred on or before July 1, 2010, under s.  
107 95.11(9).

108       Section 2. Sections 45.061, 110.504, 111.071, 163.01,  
109 190.043, 213.015, 252.51, 252.89, 252.944, 260.0125, 284.31,  
110 284.38, 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,  
111 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32, 456.009,  
112 456.076, 471.038, 472.006, 497.167, 513.118, 548.046, 556.106,  
113 589.19, 723.0611, 760.11, 766.1115, 766.112, 768.1355, 768.295,  
114 944.713, 946.5026, 946.514, 961.06, 1002.33, 1002.333, 1002.34,  
115 1002.55, 1002.83, 1002.88, 1006.24, and 1006.261, Florida  
116 Statutes, are reenacted for the purpose of incorporating the  
117 amendments made by this act to s. 768.28, Florida Statutes, in  
118 references thereto.

119       Section 3. This act shall take effect October 1, 2022.

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

122 And the title is amended as follows:

123       Delete everything before the enacting clause  
124 and insert:

125                               A bill to be entitled  
126       An act relating to sovereign immunity; amending s.



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127 768.28, F.S.; revising the statutory limits on  
128 liability for tort claims against the state and its  
129 agencies and subdivisions; specifying that only a  
130 subdivision of the state may agree to settle a claim  
131 made or judgment rendered against it in excess of the  
132 limits; prohibiting an insurance policy from  
133 conditioning the payment of benefits on the enactment  
134 of a claim bill; requiring the Department of Financial  
135 Services to adjust the limitations on tort liability  
136 every year after a specified date; requiring the  
137 department to publish the adjusted limitations on its  
138 website; revising exceptions relating to instituting  
139 actions on claims against the state or one of its  
140 agencies and to the statute of limitations for such  
141 claims; providing applicability; reenacting ss.  
142 45.061, 110.504, 111.071, 163.01, 190.043, 213.015,  
143 252.51, 252.89, 252.944, 260.0125, 284.31, 284.38,  
144 322.13, 337.19, 341.302, 373.1395, 375.251, 381.0056,  
145 393.075, 395.1055, 403.706, 409.993, 455.221, 455.32,  
146 456.009, 456.076, 471.038, 472.006, 497.167, 513.118,  
147 548.046, 556.106, 589.19, 723.0611, 760.11, 766.1115,  
148 766.112, 768.1355, 768.295, 944.713, 946.5026,  
149 946.514, 961.06, 1002.33, 1002.333, 1002.34, 1002.55,  
150 1002.83, 1002.88, 1006.24, and 1006.261, F.S., to  
151 incorporate the amendments made to s. 768.28, F.S., in  
152 references thereto; providing an effective date.