

1                                   A bill to be entitled  
 2           An act relating to statutes of limitations for  
 3           negligence actions; amending s. 768.28, F.S.; revising  
 4           the timeframe within which a claimant must present  
 5           certain claims against a governmental entity in  
 6           writing to certain entities; revising the timeframe  
 7           within which a complaint must be filed in order to  
 8           bring certain claims against a governmental entity;  
 9           providing an effective date.

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

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13           Section 1. Paragraphs (a) and (d) of subsection (6) and  
 14           subsection (14) of section 768.28, Florida Statutes, are amended  
 15           to read:

16           768.28 Waiver of sovereign immunity in tort actions;  
 17           recovery limits; civil liability for damages caused during a  
 18           riot; limitation on attorney fees; statute of limitations;  
 19           exclusions; indemnification; risk management programs.—

20           (6) (a) An action may not be instituted on a claim against  
 21           the state or one of its agencies or subdivisions unless the  
 22           claimant presents the claim in writing to the appropriate  
 23           agency, and also, except as to any claim against a municipality,  
 24           county, or the Florida Space Authority, presents such claim in  
 25           writing to the Department of Financial Services, within 18

26 | months ~~3 years~~ after such claim accrues and the Department of  
 27 | Financial Services or the appropriate agency denies the claim in  
 28 | writing; however ~~except that~~, if:

29 |     ~~1.~~ such claim is for contribution pursuant to s. 768.31,  
 30 | it must be so presented within 6 months after the judgment  
 31 | against the tortfeasor seeking contribution has become final by  
 32 | lapse of time for appeal or after appellate review or, if there  
 33 | is no such judgment, within 6 months after the tortfeasor  
 34 | seeking contribution has either discharged the common liability  
 35 | by payment or agreed, while the action is pending against her or  
 36 | him, to discharge the common liability; ~~or~~

37 |     ~~2. Such action is for wrongful death, the claimant must~~  
 38 | ~~present the claim in writing to the Department of Financial~~  
 39 | ~~Services within 2 years after the claim accrues.~~

40 |     (d) For purposes of this section, complete, accurate, and  
 41 | timely compliance with the requirements of paragraph (c) shall  
 42 | occur prior to settlement payment, close of discovery or  
 43 | commencement of trial, whichever is sooner; provided the ability  
 44 | to plead setoff is not precluded by the delay. This setoff shall  
 45 | apply only against that part of the settlement or judgment  
 46 | payable to the claimant, minus claimant's reasonable attorney's  
 47 | fees and costs. Incomplete or inaccurate disclosure of unpaid  
 48 | adjudicated claims due the state, its agency, officer, or  
 49 | subdivision, may be excused by the court upon a showing by the  
 50 | preponderance of the evidence of the claimant's lack of

51 knowledge of an adjudicated claim and reasonable inquiry by, or  
52 on behalf of, the claimant to obtain the information from public  
53 records. Unless the appropriate agency had actual notice of the  
54 information required to be disclosed by paragraph (c) in time to  
55 assert a setoff, an unexcused failure to disclose shall, upon  
56 hearing and order of court, cause the claimant to be liable for  
57 double the original undisclosed judgment and, upon further  
58 motion, the court shall enter judgment for the agency in that  
59 amount. Except as provided otherwise in this subsection, the  
60 failure of the Department of Financial Services or the  
61 appropriate agency to make final disposition of a claim within 4  
62 ~~6~~ months after it is filed shall be deemed a final denial of the  
63 claim for purposes of this section. For purposes of this  
64 subsection, in medical malpractice actions and in wrongful death  
65 actions, the failure of the Department of Financial Services or  
66 the appropriate agency to make final disposition of a claim  
67 within 90 days after it is filed shall be deemed a final denial  
68 of the claim. The statute of limitations for medical malpractice  
69 actions and wrongful death actions is tolled for the period of  
70 time taken by the Department of Financial Services or the  
71 appropriate agency to deny the claim. The provisions of this  
72 subsection do not apply to such claims as may be asserted by  
73 counterclaim pursuant to s. 768.14.

74 (14) Every claim against the state or one of its agencies  
75 or subdivisions for damages for a negligent or wrongful act or

HB 7059

2023

76 omission pursuant to this section shall be forever barred unless  
77 the civil action is commenced by filing a complaint in the court  
78 of appropriate jurisdiction within 2 4 years after such claim  
79 accrues; except that an action for contribution must be  
80 commenced within the limitations provided in s. 768.31(4), and  
81 an action for damages arising from medical malpractice or  
82 wrongful death must be commenced within the limitations for such  
83 actions in s. 95.11(4).

84 Section 2. This act shall take effect upon becoming a law.