FLORIDA HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 145 **TITLE:** Claims Against the Government **SPONSOR(S):** McFarland	**COMPANION BILL:** CS/SB 1366 (Brodeur) **LINKED BILLS:** None **RELATED BILLS:** None

FINAL HOUSE FLOOR ACTION: 108 **Y's** 1 **N's** **GOVERNOR'S ACTION:** Vetoed

SUMMARY

Effect of the Bill:

HB 145 increases the caps on the recovery of awards against a governmental entity. The cap is increased to $350,000 per person from $200,000 and the cap for multiple claims or judgments arising out of the same incident is increased to $500,000 from $300,000.

The bill clarifies that the amount of attorney fees that may be collected in a claim against the government is 25 percent of any funds recovered as a result of judgment or settlement.

The bill also revises certain statutes of limitation and presuit procedures for certain types of claims against government entities.

Fiscal or Economic Impact:

The bill will likely have an indeterminate, significant negative fiscal impact on state and local governments.

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ANALYSIS

EFFECT OF THE BILL:

Statutory Caps

HB 145 amends s. 768.28, F.S., relating to the state's limited waiver of sovereign immunity which allows for suits in tort against the state and its agencies and subdivisions, subject to statutory caps. The bill increases the statutory caps on judgments against the state or an agency or subdivision thereof. The caps are increased from $200,000 per person and $300,000 per incident to $350,000 per person and $500,000 per incident. (Section 1).

Attorney Fees

The bill clarifies that the maximum amount of attorney fees that may be collected in a claim against the government is 25 percent of any funds recovered as a result of judgment or settlement. (Section 1).

Timeframes for Filing an Action

The bill changes the current general four-year statute of limitations for filing a claim against the state or its agencies or subdivisions to the following timeframes:

- For claims based on negligence: the claim must be filed within two years.[1]
- For claims based on contribution: the claim must be filed within the limitations established in s. 768.31(4), F.S.
- For claims based on medical malpractice or wrongful death: the claim must be filed within the limitations established in s. 95.11(4), F.S.

[1] This two-year period is the same as the statute of limitations for bringing a negligence claim against a private party. *See* s. 95.11(4)(a), F.S.

- For claims based on sexual battery on a victim under 16: the claim may be filed at any time; however, this does not resuscitate any claims that may have already been time barred by previous statutes of limitations.
- For any other claim: the claim must be filed within four years. (Section 1).

To accommodate these changes in the statutes of limitation, the bill decreases the allotted presuit notice period for a claimant to present the required written notice of the claim to the appropriate agency from three years to 18 months. Similarly, the bill decreases the time period in which a claimant must present written notice of a claim for wrongful death from two years to 18 months. However, if the claim is based on a sexual battery of a victim under the age of 16, in violation of s. 794.011, F.S., the claimant may present written notice of the claim at any time. (Section 1).

The bill also decreases from six months to four months the time period in which the Department of Financial Services (DFS) or the appropriate agency must dispose of a presuit notice of a claim. As such, the responding agency must dispose of a claim within four months of a claim being filed or it is deemed a final denial (thus allowing the claimant to move forward with a civil suit). However, the bill does not change the time period by which an agency must dispose of a claim for medical malpractice or wrongful death. As such, a final disposition for a claim made for medical malpractice or wrongful death must still be made within 90 days from the date of filing or it is deemed a final denial of the claim. (Section 1).

The bill provides that the statute of limitations for all prospective defendants, not just those in medical malpractice or wrongful death actions, is tolled for the period of time taken by the agency to deny the claim.[2] (Section 1).

The bill amends s. 944.713(2), F.S., clarifying that when a private vendor contracts to build, lease, or operate a correctional facility, it must agree to indemnify the state for certain incurred liabilities up to the amount of the sovereign immunity caps as provided in the bill. (Section 6).

Application and Other Changes

The changes made by the bill apply to all causes of action that accrue on or after October 1, 2026. (Section 2).

The bill makes technical changes and also reenacts a number of statutes for the purpose of incorporating the changes made by the language of the bill. (Sections 3-5 and 7-67).

The effective date of the bill was October 1, 2026, however, the bill was vetoed by the Governor on June 30, 2026. (Section 68).

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

By increasing the sovereign immunity caps, the bill increases the possibility that the state and its agencies will spend more of their resources to satisfy tort claims. The provision of larger payments in satisfaction of tort claims, however, may also reduce the demand for other government services that would have otherwise been necessary to assist claimants.

By reducing the statute of limitations for negligence suits against the government, the bill may reduce the number of cases initiated and consequently the potential damages sought by claimants from the government. Further, by reducing the pre-suit time period for a government entity or DFS to review and dispose of a claim against the state, the bill may affect the pre-suit settlement process.

[2] "To toll" means to stop the running of a time period, especially a time period set by a statute of limitations. Cornell Law School: Legal Information Institute, *Toll*, https://www.law.cornell.edu/wex/toll#:~:text=To%20toll%20means%20to%20stop,by%20a%20statute%20of%20limitations%20. (last visited March 16, 2026).

By increasing the statute of limitations for sexual battery on a victim under 16 to an indefinite period in which an alleged victim may bring a claim, the bill may increase the number of claims against the government for such sexual battery.

LOCAL GOVERNMENT:

By increasing sovereign immunity caps, the bill will likely have a negative fiscal impact on local governments.

PRIVATE SECTOR:

The bill may enable more individuals who have tort claims against the state or one of its agencies or subdivisions to receive larger payments without the need to pursue a claim bill. The ability to collect larger settlements or judgments against government entities may also serve as an incentive for private attorneys to represent claimants in these matters. However, the bill may reduce government services to the public in proportion to additional amounts required from the budget to satisfy tort claims.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Civil Tort Action

One of the goals of the civil justice system is to redress tortious conduct, or "torts." A tort is a wrong for which the law provides a remedy. Torts are generally divided into two categories, as follows:

- An intentional tort, examples of which include an assault, battery, or false imprisonment.
- Negligence, which is a tort that is unintentionally committed. To prevail in a negligence lawsuit, the party seeking the remedy, the "plaintiff," must demonstrate that the:
    - Defendant had a legal duty of care requiring the defendant to conform to a certain standard of conduct for the protection of others, including the plaintiff, against unreasonable risks;
    - Defendant breached his or her duty of care by failing to conform to the required standard;
    - Defendant's breach caused the plaintiff to suffer an injury; and
    - Plaintiff suffered actual damage or loss resulting from such injury.[3]

Sovereign Immunity

Sovereign immunity is a principle under which a government cannot be sued without its consent.[4] Article X, section 13 of the Florida Constitution allows the Legislature to waive this immunity. In accordance with art. X, s. 13 of the Florida Constitution, Florida law allows for suits in tort against the state and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment.[5] This liability exists only where a private person would be liable for the same conduct. The waiver of sovereign immunity provided under section 768.28, F.S., applies only to "injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment."[6]

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee's acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.[7] A government entity is not liable for any damages resulting from actions by an employee outside the scope of his or

[3] 6 *Florida Practice Series* s. 1.1; *see Barnett v. Dept. of Fin. Serv.*, 303 So. 3d 508 (Fla. 2020).
[4] *Sovereign immunity*, Legal Information Institute, https://www.law.cornell.edu/wex/sovereign_immunity (last visited March 16, 2026).
[5] S. 768.28(1), F.S.
[6] *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.) (internal punctuation omitted).
[7] S. 768.28(9)(a), F.S.

her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.[8]

Statutory Caps on Recovery of Damages

Section 768.28(5), F.S., caps damages recoverable in a tort action against a governmental entity at $200,000 per person and $300,000 per incident.[9] Although a court may enter an excess judgment, absent a claim bill passed by the Legislature, a claimant may not actually collect more than the caps provide.[10]

State Agency

A state agency means any department, agency, or instrumentality of a state or of a political subdivision of a state. Generally, a state agency is a government department, office, or board that operates within a state; state agencies are responsible for carrying out laws enacted by the state legislature. Some examples of current state agencies include:

- Agency for Health Care Administration (AHCA);
- Agency for Persons with Disabilities (APD);
- Commission on Ethics;
- Department of Management Services (DMS);
- Department of Military Affairs (DMA);
- Division of Administrative Hearings (DOAH);
- Florida Agricultural and Mechanical University (FAMU);
- Florida Atlantic University (FAU);
- Florida Citrus;
- Florida Commerce (formerly the Florida Department of Economic Opportunity or DEO);
- Florida Commission on Human Relations (FCHR);
- Florida Commission on Offender Review (Parole Commission);
- Florida Department of Agriculture and Consumer Services (FDACS);
- Florida Department of Business and Professional Regulation (DBPR);
- Florida Department of Children and Families (DCF);
- Florida Department of Corrections (DOC);
- Florida Department of Education (DOE);
- Florida Department of Elder Affairs;
- Florida Department of Environmental Protection (DEP);
- Florida Department of Financial Services (DFS);
- Florida Department of Health (DOH);
- Florida Department of Highway Safety and Motor Vehicles (DHSMV);
- Florida Department of Juvenile Justice (DJJ);
- Florida Department of Law Enforcement (FDLE);
- Florida Department of Legal Affairs (Office of the Attorney General or AOG);
- Florida Department of Revenue (DOR);
- Florida Department of State (DOS);
- Florida Department of Transportation (FDOT);
- Florida Department of Veterans' Affairs;
- Florida Division of Emergency Management;
- Florida Fish and Wildlife Conservation Commission (FWC);
- Florida Gulf Coast University (FGCU);
- Florida Housing Finance Corporation;
- Florida International University (FIU);
- Florida Lottery;

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[8]S. 768.28, F.S.
[9] S. 768.28(5), F.S.
[10] *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

- Florida Office of Financial Regulation (OFR);
- Florida Office of Insurance Regulation (FLOIR);
- Florida Polytechnic University;
- Florida Public Service Commission (PSC);
- Florida School for the Deaf and the Blind;
- Florida State University (FSU);
- New College of Florida;
- University of Central Florida (UCF);
- University of Florida (UF);
- University of North Florida (UNF);
- University of South Florida (USF); and
- University of West Florida (UWF).[11]

Subdivision

A political subdivision is a separate legal entity of the State which usually has specific governmental functions.[12] Section 218.077(2)(f), F.S., defines a political subdivision as a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law. Local governments are incorporated by special acts of the Florida Legislature and include counties, municipalities, school districts, and special districts.[13]

Legislative Claim Bill

A plaintiff may recover an amount greater than the caps described in s. 768.28(5), F.S., by way of a legislative claim bill. A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.[14] Such obligations typically arise from the negligence of officers or employees of the State or a local governmental entity.[15] Legislative claim bills are typically pursued after procurement of a judgment or settlement in an action at law where the full amount of damages awarded cannot be satisfied because of statutory caps.[16] The amount awarded is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.[17] Unlike civil judgments, claim bills are not obtainable by right; rather, they are granted as a matter of legislative grace.[18]

Once a legislative claim bill is formally introduced, a special master[19] usually conducts a quasi-judicial hearing.[20] This hearing may resemble a trial during which the claimant offers testimony as well as documentary and physical evidence necessary to establish the claim. Trial records may be substituted for witness testimony. Testifying witnesses are sworn and subject to cross-examination.[21] A respondent may present a defense to contest the claim, and the special master may then prepare a report with an advisory recommendation to the Legislature if the bill is placed on an agenda.[22]

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[11] Florida Executive Office of the Governor, *Info Center: State Agencies*, https://www.flgov.com/eog/info/agencies (last visited March 16, 2026).
[12] Social Security Administration, *How to Determine an Entity's Legal Status*, https://www.ssa.gov/section218training/advanced_course_9.htm#3 (last visited March 16, 2026).
[13] Susan A. MacManus, et al, *Politics in Florida*, (4th ed. 2015).
[14] *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).
[15] *Id.*
[16] *City of Miami v. Valdez,* 847 So. 2d 1005 (Fla. 3d DCA 2003).
[17] *Wagner*, 960 So. 2d at 788 (citing Kahn, Legislative Claim Bills, Fla. B. Journal (April 1988)).
[18] *United Servs. Auto. Ass'n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).
[19] The "Special Master" is a role appointed by the Speaker of the House of Representatives and the Senate President, respectively. The special master oversees factfinding, which may include holding a de novo hearing on the claim which is administrative in nature, and may prepare a report and recommendation to the respective chamber. *See* House Rule 5.6.
[20] *Wagner*, 960 So. 2d at 788 (citing Kahn at 26).
[21] *Id.*
[22] *Id.*

Alternatively, a government entity may, without the need for a claim bill, settle a claim or pay a judgment against it for an amount in excess of the caps in s. 768.28, F.S., but only if that amount is within the limits of its insurance coverage.[23]

Accrual of a Claim

An important date for the purpose of a claim bill is the date the claim accrues. Under s. 95.031(1), F.S., a claim accrues when the last element constituting the cause of action occurs. In a negligence claim, the cause of action accrues "upon the happening of an accident and the attendant injuries."[24] Further, s. 768.28(6)(b), F.S., specifies that the requirements of notice to an agency and denial of the claim required under sovereign immunity are not deemed to be elements of the cause of action and do not affect the date on which the cause of action accrues.

Statutes of Limitations

A statute of limitations is an absolute bar to the filing of a lawsuit after a date set by law. A statute of limitations specifies when such time period begins, how long the limitation period runs, and the circumstances by which the running of the statute may be "tolled," or suspended. A statute of limitations usually begins to run when a cause of action accrues, which generally, is when the harm occurs.

Section 95.11(3)(a), F.S., currently provides that general actions against a private citizen or entity founded on negligence are subject to a two-year statute of limitations. But general actions based on negligence against the government are subject to a four-year statute of limitations.[25]

Contribution

Section 768.31, F.S., provides for the right to contribution. Generally, contribution is a legal action that allows a tortfeasor to collect from others responsible for the same tort after the tortfeasor has paid more than his or her pro rata share of the damages. No single tortfeasor is compelled to make contribution beyond his or her own pro rata share of the entire liability.[26]

An action for contribution must be filed within one year after the judgment has become final by lapse of time for appeal or after appellate review.[27]

Medical Malpractice

Section 766.102, F.S., provides for the recovery of damages based on the death or personal injury of any person in which it is alleged the injury resulted from the negligence of a health care provider. In a medical malpractice case, the claimant has the burden of proving by a greater weight of the evidence that the alleged actions of the provider represented a breach in the prevailing professional standard of care for that healthcare provider.[28]

An action for medical malpractice must be filed within two years from the time the incident giving rise to the action occurred or within two years from the time the incident is discovered, or should have been discovered with the exercise of due diligence.[29] However, generally, no medical malpractice action may be filed more than four years after the date of the incident or occurrence out of which the cause of action accrued.[30]

Wrongful Death

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[23] S. 768.28(5), F.S.
[24] *Dep't. of Transp. v. Soldovere*, 519 So. 2d 616 (Fla. 1988).
[25] S. 768.28(4), F.S.
[26] S. 768.31, F.S.
[27] S. 768.31(4)(c), F.S.
[28] S. 766.102(1), F.S.
[29] S. 766.102(1), F.S.
[30] S. 95.11(5)(c), F.S.

Generally, an action for wrongful death may be brought when a person dies due to the wrongful act, negligence, default, or breach of contract or warranty of any person, and the event would have entitled the person injured to bring an action and recover damages if the death had not ensued.[31] An action for wrongful death must be initiated within two years from the death of the subject person.[32]

Civil Claim for Sexual Battery

Section 794.011, F.S., establishes the criminal offense of sexual battery. Pursuant to statute, sexual battery means oral, anal, or female genital penetration, by or union with, the sexual organ of another or the anal or female genital penetration of another by any other object. The definition of sexual battery, however, does not include an act done for a bona fide medical purpose. Sexual battery by an adult (18 years of age or older) upon another adult is a first-degree felony punishable, in general, by imprisonment for up to 30 years and a fine of up to $10,000.[33] The penalties for sexual battery are increased for victims under the age of 18, vulnerable victims, and habitual offenders.

Section 95.11, F.S., provides statutes of limitation for various types of civil actions. In 2010, the Legislature amended s. 95.11, F.S., to remove any statute of limitations applying to a civil action against a private entity for sexual battery if the victim was under 16 at the time of the crime.[34] The Legislature provided, however, that this amendment would not resuscitate any civil claims that were already barred by the statute of limitations at the time.[35]

Presuit Procedures

Before a claimant files a lawsuit against a government entity, the claimant generally must present the claim in writing to the government entity within a time period prescribed by law, which is generally three years; but if the claim is for wrongful death, the notice must be given to the Department of Financial Services (DFS) within two years.[36] If the claim is brought against the state, the claimant must also present the claim to DFS. The government entity generally then has six months to review the claim. If the government entity does not dispose of the claim within that six-month period, the claimant may generally proceed with the lawsuit.[37]

Private Correctional Facility Vendor Indemnification

Pursuant to s. 944.713, F.S., a private vendor who submits a bid to contract for the construction, lease, or operation of a correctional facility to the state must provide proof of certain insurance coverage to cover liability for any claim or judgment which arises. Under current law, such private vendor must provide insurance for claims up to $100,000 for a single person or $200,000 for the total aggregate claims arising out of a single incident or occurrence.[38]

A "private correctional facility" is defined as any facility, which is not operated by the Florida Department of Corrections (DOC), for the incarceration of adults or juveniles who have been sentenced by a court and committed to the custody of the DOC.[39]

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[31] S. 768.19, F.S.
[32] S. 95.11(5)(e), F.S.
[33] Ss. 775.082, F.S. and 775.083, F.S.
[34] Ch. 2010-54, s. 1, Laws of Fla.; s. 95.11(9), F.S.
[35] *Id.* ("This subsection applies to any such action other than one which would have been time barred on or before July 1, 2010").
[36] *See* s. 768.28(6)(a), F.S.
[37] *See* s. 768.28(6)(d), F.S.
[38] S. 944.713(2), F.S.
[39] S. 944.710(3), F.S.

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	OTHER INFORMATION
2025	CS/HB 301	McFarland *DiCeglie*	The bill died in the Senate.

OTHER RESOURCES:

Legislative Claim Bill Manual 2024

National Association of Attorneys General: State Sovereign Immunity Nationwide