

1 A bill to be entitled
 2 An act relating to child protection teams; amending s.
 3 768.28, F.S.; revising the definition of the term
 4 "officer, employee, or agent," as it applies to
 5 immunity from personal liability in certain actions,
 6 to include any member of a child protection team, in
 7 certain circumstances; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraphs (a) and (b) of subsection (9) of
 12 section 768.28, Florida Statutes, are amended to read:

13 768.28 Waiver of sovereign immunity in tort actions;
 14 recovery limits; limitation on attorney fees; statute of
 15 limitations; exclusions; indemnification; risk management
 16 programs.—

17 (9) (a) An ~~No~~ officer, employee, or agent of the state or
 18 of any of its subdivisions may not ~~shall~~ be held personally
 19 liable in tort or named as a party defendant in any action for
 20 any injury or damage suffered as a result of any act, event, or
 21 omission of action in the scope of her or his employment or
 22 function, unless such officer, employee, or agent acted in bad
 23 faith or with malicious purpose or in a manner exhibiting wanton
 24 and willful disregard of human rights, safety, or property.
 25 However, such officer, employee, or agent shall be considered an

26 | adverse witness in a tort action for any injury or damage
27 | suffered as a result of any act, event, or omission of action in
28 | the scope of her or his employment or function. The exclusive
29 | remedy for injury or damage suffered as a result of an act,
30 | event, or omission of an officer, employee, or agent of the
31 | state or any of its subdivisions or constitutional officers is
32 | ~~shall be~~ by action against the governmental entity, or the head
33 | of such entity in her or his official capacity, or the
34 | constitutional officer of which the officer, employee, or agent
35 | is an employee, unless such act or omission was committed in bad
36 | faith or with malicious purpose or in a manner exhibiting wanton
37 | and willful disregard of human rights, safety, or property. The
38 | state or its subdivisions are ~~shall not be~~ liable in tort for
39 | the acts or omissions of an officer, employee, or agent
40 | committed while acting outside the course and scope of her or
41 | his employment or committed in bad faith or with malicious
42 | purpose or in a manner exhibiting wanton and willful disregard
43 | of human rights, safety, or property.

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

45 | 1. "Employee" includes any volunteer firefighter.

46 | 2. "Officer, employee, or agent" includes, but is not
47 | limited to, any health care provider when providing services
48 | pursuant to s. 766.1115; any nonprofit independent college or
49 | university located and chartered in this state which owns or
50 | operates an accredited medical school, and its employees or

HB 535

2019

51 agents, when providing patient services pursuant to paragraph
52 (10) (f); ~~and~~ any public defender or her or his employee or
53 agent, including, ~~among others,~~ an assistant public defender or
54 ~~and~~ an investigator; and any member of a child protection team,
55 as defined in s. 39.01, when carrying out her or his duties as a
56 team member.

57 Section 2. This act shall take effect July 1, 2019.