

ENROLLED

HB 871

2021 Legislature

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An act relating to sovereign immunity for Child Protection Teams; amending s. 768.28, F.S.; revising the definition of the term "officer, employee, or agent" as it applies to immunity from personal liability in certain actions to include any member of a Child Protection Team established by the Department of Health in certain circumstances; providing an effective date.

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

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

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

(9) (a) An ~~No~~ officer, employee, or agent of the state or of any of its subdivisions may not ~~shall~~ be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton

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

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

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

48 | 2. "Officer, employee, or agent" includes, but is not
49 | limited to, any health care provider when providing services
50 | pursuant to s. 766.1115; any nonprofit independent college or

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51 university located and chartered in this state which owns or
52 operates an accredited medical school, and its employees or
53 agents, when providing patient services pursuant to paragraph
54 (10) (f); ~~and~~ any public defender or her or his employee or
55 agent, including, ~~among others,~~ an assistant public defender or
56 ~~and~~ an investigator; and any member of a Child Protection Team,
57 as defined in s. 39.01(13), when carrying out her or his duties
58 as a team member under the control, direction, and supervision
59 of the state or any of its agencies or subdivisions.

60 Section 2. This act shall take effect July 1, 2021.