

1                                   A bill to be entitled  
 2       An act relating to legislative immunity; creating s.  
 3       11.112, F.S., providing legislative findings  
 4       concerning legislative privileges and immunities;  
 5       providing that legislators and former legislators have  
 6       an absolute privilege in any civil action or any  
 7       judicial administrative proceeding or executive branch  
 8       administrative proceeding against compelled testimony  
 9       or the compelled production of any document or record  
 10      in connection with any action taken or function  
 11      performed in a legislative capacity; providing an  
 12      absolute privilege for any legislative staff member or  
 13      former legislative staff member to the same extent as  
 14      a legislator's privilege; providing that the privilege  
 15      specified in this section may only be waived by a  
 16      legislative staff member or former legislative staff  
 17      member with a written waiver from the appropriate  
 18      legislator or former legislator; providing that in the  
 19      case of a legislator or former legislator who is  
 20      deceased the privilege remains in perpetuity in the  
 21      same status as it was on the date of the legislator's  
 22      or former legislator's death; providing that the  
 23      section shall not affect or alter the right of access  
 24      to public records pursuant to s. 24, Art. I of the  
 25      Florida Constitution or s. 11.0431, F.S.; providing an  
 26      effective date.

27  
 28    Be It Enacted by the Legislature of the State of Florida:

29  
30 Section 1. Section 11.112, Florida Statutes, is created to  
31 read:

32 11.112 .-- Legislative privileges and immunities

33 (1) The Florida Legislature finds:

34 (a) That state legislators and their staff have broad  
35 privileges and immunities under the Florida Constitution arising  
36 from their service in the legislative branch of government,  
37 including a broad privilege and immunity against compelled  
38 testimony in forums outside the legislative body in which they  
39 serve, encompassing all legislative actions and functions and  
40 their mental impressions and intentions regarding legislative  
41 actions and functions.

42 (b) That such privileges and immunities exist to encourage  
43 and protect the uninhibited discharge of a legislator's duty for  
44 the public good and not a legislator's personal benefit.

45 (c) That such privileges and immunities are inherent in the  
46 legislative powers vested in the Florida Legislature by Art.  
47 III, s. 1, and implicit in the separation of powers under Art.  
48 II, s. 3, of the Florida Constitution.

49 (d) That a codification of certain privileges and  
50 immunities in no way limits or abrogates the full privileges and  
51 immunities inherent in the legislative powers, the separation of  
52 powers and in the guarantee of a republican form of government.

53 (2) A member or former member of the legislature has an  
54 absolute privilege in any civil action, judicial administrative  
55 proceeding or executive branch administrative proceeding against  
56 compelled testimony or the compelled production of any document

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57 or record in connection with any action taken or function  
58 performed in a legislative capacity.

59 (3) Subject to the provisions of subsection (4), a  
60 legislative staff member or former legislative staff member has  
61 an absolute privilege in any civil action, judicial  
62 administrative proceeding or executive branch administrative  
63 proceeding to the same extent as a member of the legislature  
64 when the matter at issue or document or record involves duties  
65 performed within the scope of his or her employment as a  
66 legislative staff member.

67 (4) The privilege specified in this section belongs to  
68 legislators and former legislators. A legislative staff member  
69 or former legislative staff member shall not waive the privilege  
70 specified under this section except by a waiver of the privilege  
71 by the legislator or former legislator on whose behalf the  
72 legislative staff member was acting, or where not acting on  
73 behalf of a specific legislator, by the presiding officer, at  
74 the time, of the legislative chamber where the legislative staff  
75 member was employed. In order for a waiver of a legislator's or  
76 former legislator's privilege or immunity to be sufficient, it  
77 must be an explicit and unequivocal renunciation of the  
78 privilege or immunity in writing.

79 (5) In the case of a legislator or former legislator who is  
80 deceased, the privilege or immunity shall remain in perpetuity  
81 in the same status as it was on the date of the legislator's or  
82 former legislator's death.

83 (6) This section shall not affect or alter the right of  
84 access to public records which are open to personal inspection

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85 and copying pursuant to s. 24, Art. I of the State Constitution  
86 or s. 11.0431.

87 Section 2. This act shall take effect upon becoming law.