

HB 7123

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1 A bill to be entitled
 2 An act relating to legislative immunity; creating s.
 3 11.112, F.S.; providing legislative findings relating
 4 to legislative privileges and immunities; providing
 5 that legislators and former legislators have an
 6 absolute privilege in certain actions or proceedings
 7 against compelled testimony or the compelled
 8 production of any document or record connected with
 9 any action taken or function performed in a
 10 legislative capacity; providing an absolute privilege
 11 for legislative staff members or former legislative
 12 staff members under certain circumstances; providing
 13 for waiver of the privilege; providing that the
 14 privilege for a legislator or former legislator who is
 15 deceased remains in perpetuity; providing
 16 construction; providing an effective date.

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

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 20 Section 1. Section 11.112, Florida Statutes, is created to
 21 read:

22 11.112 Legislative privileges and immunities.—

23 (1) The Legislature finds that:

24 (a) State legislators and legislative staff have broad
 25 privileges and immunities under the State Constitution arising
 26 from their service in the legislative branch of government. This
 27 includes a broad privilege and an immunity against compelled
 28 testimony in forums outside the legislative body in which they

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29 serve encompassing all legislative actions and functions of
30 legislators and staff and their mental impressions and
31 intentions regarding those legislative actions and functions.

32 (b) These privileges and immunities exist to encourage and
33 protect the uninhibited discharge of a legislator's duty for the
34 public good and do not exist for a legislator's personal
35 benefit.

36 (c) These privileges and immunities are inherent in the
37 legislative powers vested in the Legislature by s. 1, Art. III
38 of the State Constitution and are implicit in the separation of
39 powers contained in s. 3, Art. II of the State Constitution.

40 (d) A codification of certain privileges and immunities
41 does not limit or abrogate the full privileges and immunities
42 inherent in the legislative powers, the separation of powers,
43 and the guarantee of a republican form of government.

44 (2) A member or former member of the Legislature has an
45 absolute privilege in any civil action, judicial administrative
46 proceeding, or executive branch administrative proceeding
47 against compelled testimony or the compelled production of any
48 document or record connected with any action taken or any
49 function performed in a legislative capacity.

50 (3) Subject to subsection (4), a legislative staff member
51 or former legislative staff member has an absolute privilege in
52 any civil action, judicial administrative proceeding, or
53 executive branch administrative proceeding to the same extent
54 that a member or former member of the Legislature has when the
55 matter at issue, document, or record involves duties performed
56 within the scope of the legislative staff member's employment.

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57 (4) The privilege specified in this section belongs to
58 legislators and former legislators. A legislative staff member
59 or former legislative staff member shall not waive the privilege
60 specified under this section except by a waiver of the privilege
61 by the legislator or former legislator on whose behalf the
62 legislative staff member was acting or, when not acting on
63 behalf of a specific legislator, by the presiding officer at the
64 time of the legislative chamber in which the legislative staff
65 member was employed. In order for a waiver of a legislator's or
66 former legislator's privilege or immunity to be sufficient, it
67 must be an explicit and unequivocal written renunciation of the
68 privilege or immunity.

69 (5) In the case of a legislator or former legislator who
70 is deceased, the privilege or immunity shall remain in
71 perpetuity in the same status that it existed on the date of the
72 legislator's or former legislator's death.

73 (6) This section does not affect or alter the right of
74 access to public records that are open to personal inspection
75 and copying pursuant to s. 24, Art. I of the State Constitution
76 or s. 11.0431.

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