

## Committee Substitute for Senate Bill No. 778

An act relating to lawyer assistance programs; providing civil immunity for persons making good-faith reports of information to a lawyer assistance program; providing for a presumption of good faith; providing for immunity for certain persons; providing that certain information is subject to privilege; providing for the confidentiality of certain records, proceedings, and communications; providing an effective date.

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

Section 1. Civil immunity.—A person who in good faith reports information or takes action in connection with a lawyer assistance program or a person who receives information in connection with a lawyer assistance program is immune from civil liability for reporting the information, taking the action, or taking no action, provided that such person has acted in good faith and without malice.

Section 2. Presumption of good faith.—A member of a lawyer assistance program or a person reporting information to a lawyer assistance program is presumed to have acted in good faith and without malice. A person alleging lack of good faith has the burden of proving bad faith and malice.

Section 3. Persons entitled to immunity.—The civil immunity provided for in this act shall be liberally construed to accomplish the purposes of this act. The persons entitled to immunity under this act include:

(1) Florida Lawyers Assistance, Inc., and other lawyer assistance programs approved by the Florida Supreme Court or The Florida Bar which provide assistance to attorneys who may be impaired because of abuse of alcohol or other drugs or because of any other physical or mental infirmity causing impairment.

(2) A member, employee, or agent of the program, association, or non-profit corporation.

(3) A person who reports or provides information to the program concerning an impaired legal professional, including, but not limited to, a person designated to monitor or supervise the course of treatment or rehabilitation of an impaired professional.

Section 4. Information subject to privilege.—All privileged information, whether attorney-client, work product, or otherwise, in any form, furnished to the lawyer assistance program shall remain privileged.

Section 5. Confidentiality of records, proceedings, and communications.—The records, proceedings, and all communications by and between an individual seeking assistance and the lawyer assistance program shall be deemed confidential and shall not be subject to disclosure or available for court subpoena. This section does not prevent the subpoena of business

records that are otherwise available through subpoena, nor does this section preclude release or disclosure of information or communications by the lawyer assistance program when such disclosure is mandated or required as a condition or precondition for entry in the program. Such records are not to be construed as privileged merely because they have been maintained by a lawyer assistance program.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor June 15, 2001.

Filed in Office Secretary of State June 15, 2001.