

1 HB479
2 128640-1
3 By Representatives McCutcheon and Hill
4 RFD: Judiciary
5 First Read: 07-APR-11

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8 SYNOPSIS: Existing law provides immunity from tort
9 liability for peace officers for conduct while
10 performing in the line and scope of official law
11 enforcement duties.

12 This bill would extend immunity to peace
13 officers contracted by a sheriff to perform
14 specific law enforcement activities related to an
15 eviction order.

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17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 Relating to immunity from tort liability for state
22 and local peace officers of this state; to amend Section
23 6-5-338 of the Code of Alabama 1975, to extend immunity to
24 peace officers contracted by a sheriff on an off-duty basis to
25 perform specific law enforcement activities related to an
26 eviction order.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 6-5-338 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§6-5-338.

4 "(a) Every peace officer, except constables, who is
5 employed or appointed pursuant to the Constitution or statutes
6 of this state, whether appointed or employed as such peace
7 officer by the state or a county or municipality thereof, or
8 by an agency or institution, corporate or otherwise, created
9 pursuant to the Constitution or laws of this state and
10 authorized by the Constitution or laws to appoint or employ
11 police officers or other peace officers, and whose duties
12 prescribed by law, or by the lawful terms of their employment
13 or appointment, include the enforcement of, or the
14 investigation and reporting of violations of, the criminal
15 laws of this state, and who is empowered by the laws of this
16 state to execute warrants, to arrest and to take into custody
17 persons who violate, or who are lawfully charged by warrant,
18 indictment, or other lawful process, with violations of, the
19 criminal laws of this state, and each peace officer hired by a
20 sheriff as authorized in subsection (b) shall at all times be
21 deemed to be officers of this state, and as such shall have
22 immunity from tort liability arising out of his or her conduct
23 in performance of any discretionary function within the line
24 and scope of his or her law enforcement duties.

25 "(b) This section is intended to extend immunity
26 ~~only~~ to peace officers and governmental units or agencies
27 authorized to appoint peace officers and to peace officers

1 contracted on an off-duty basis by a sheriff to provide
2 specific law enforcement activities related to an eviction
3 order. No immunity is extended hereby to any private
4 non-governmental person or entity, including any private
5 employer of a peace officer during that officer's off-duty
6 hours.

7 "(c) Every private, non-governmental person or
8 entity who employs a peace officer during that officer's
9 "off-duty" hours to perform any type of security work or to
10 work while in the uniform of a peace officer shall have in
11 force at least \$100,000 of liability insurance, which
12 insurance must indemnify for acts the "off-duty" peace officer
13 takes within the line and scope of the private employment. The
14 failure to have in force the insurance herein required shall
15 make every individual employer, every general partner of a
16 partnership employer, every member of an unincorporated
17 association employer, and every officer of a corporate
18 employer individually liable for all acts taken by an
19 "off-duty" peace officer within the line and scope of the
20 private employment."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.