

First Extraordinary Session, 2005

HOUSE BILL NO. 28

BY REPRESENTATIVES MARTINY, ALEXANDER, BEARD, BRUNEAU, BURNS, R. CARTER, CROWE, DANIEL, DOVE, DOWNS, ERDEY, GEYMAN, GREENE, HUTTER, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAMBERT, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SCHNEIDER, SMILEY, JANE SMITH, STRAIN, THOMPSON, TOOMY, TRAHAN, TUCKER, WADDELL, WALSWORTH, WHITE, AND WINSTON AND SENATORS BARHAM, BOASSO, CAIN, DARDENNE, HOLLIS, KOSTELKA, LENTINI, MALONE, MICHOT, QUINN, ROMERO, SCHEDLER, THEUNISSEN, N. GAUTREAUX, AND MURRAY

1 AN ACT

2 To amend and reenact R.S. 29:735(A), relative to immunity of law enforcement agencies
3 during Hurricane Katrina or Rita; to provide for limitation of liability for law
4 enforcement agencies and officers based on detention of persons in any parish prison
5 or local jail under certain circumstances; to provide for liability of law enforcement
6 agencies under certain circumstances; to provide for retroactive application; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 29:735(A) is hereby amended and reenacted to read as follows:

10 §735. Immunity of personnel

11 A.(1) Neither the state nor any political subdivision thereof, nor other
12 agencies, nor, except in case of willful misconduct, the agents' employees or
13 representatives of any of them engaged in any homeland security and emergency
14 preparedness activities, while complying with or attempting to comply with this
15 Chapter or any rule or regulation promulgated pursuant to the provisions of this
16 Chapter shall be liable for the death of or any injury to persons or damage to property
17 as a result of such activity.

18 (2) Additionally, no prisoner in the custody of the sheriff or law enforcement
19 agency who was evacuated to another prison or jail during and immediately after
20 Hurricane Katrina or Rita, and who was not released within the time required by the

1 Code of Criminal Procedure or Title 15 of the Louisiana Revised Statutes of 1950,
2 shall have a cause of action for damages against the sheriff or law enforcement
3 agency for the failure to timely release the prisoner, if the failure was due to the
4 effects of Hurricane Katrina or Rita and the lack of access to prison records and
5 information specifying when the prisoner is to be released; however, the sheriff or
6 law enforcement agency shall be liable for damages if within a reasonable length of
7 time following Hurricane Katrina or Rita, the sheriff or law enforcement agency
8 makes no attempt to ascertain when the prisoner is to be released and fails to release
9 the prisoner from custody.

* * *

11 Section 2. The provisions of this Act shall be applied retroactively to August 29,
12 2005.

13 Section 3. This Act shall become effective upon signature by the governor or, if not
14 signed by the governor, upon expiration of the time for bills to become law without signature
15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
16 vetoed by the governor and subsequently approved by the legislature, this Act shall become
17 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____