



1 community-based provider shall be limited to net economic  
2 damages, including, but not limited to, past and future  
3 medical expenses, wage loss, and loss of earning capacity,  
4 offset by any collateral source payments paid. Any offset of  
5 collateral source payments made as of the date of the  
6 settlement or judgment shall be in accordance with s. 768.76.  
7 The state shall hold harmless the private providers for  
8 noneconomic damages over \$200,000 pursuant to s. 768.28.  
9       (d) The liability of an eligible lead community-based  
10 provider prescribed in this section shall be exclusive and in  
11 place of all other liability of such provider. The same  
12 immunities from liability enjoyed by such provider shall  
13 extend as well to each employee of the provider when such  
14 employee is acting in furtherance of the provider's business.  
15 Such immunities shall not be applicable to a provider or an  
16 employee who acts in a culpably negligent manner or with  
17 unprovoked physical aggression when such acts result in injury  
18 or death or such acts proximately cause such injury or death,  
19 nor shall such immunities be applicable to employees of the  
20 same provider when each is operating in the furtherance of the  
21 provider's business, but they are assigned primarily to  
22 unrelated works within private or public employment. The same  
23 immunity provisions enjoyed by a provider shall also apply to  
24 any sole proprietor, partner, corporate officer or director,  
25 supervisor, or other person who in the course and scope of his  
26 or her duties acts in a managerial or policymaking capacity  
27 and the conduct which caused the alleged injury arose within  
28 the course and scope of said managerial or policymaking duties  
29 and was not a violation of a law, whether or not a violation  
30 was charged, for which the maximum penalty which may be  
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1 imposed does not exceed 60 days' imprisonment as set forth in  
2 s. 775.082.

3 (e) An subcontractor of an eligible lead  
4 community-based agency that provides foster care and related  
5 services to children and families under contract with the  
6 department pursuant to this section must, as a part of its  
7 subcontract, be covered under a general liability insurance  
8 policy. Any tort action brought against a subcontractor of an  
9 eligible lead community-based provider which is a direct  
10 provider of foster care and related services shall be limited  
11 to net economic damages, including, but not limited to, past  
12 and future medical expenses, wage loss, and loss of earning  
13 capacity, offset by any collateral source payments paid. Any  
14 offset of collateral source payments made as of the date of  
15 the settlement or judgment shall be in accordance with s.  
16 768.76. The state shall hold harmless the private providers  
17 for noneconomic damages over \$200,000 pursuant to s. 768.28.

18 (f) The liability of a subcontractor of an eligible  
19 lead community-based provider which is a direct provider of  
20 foster care and related services as prescribed in this section  
21 shall be exclusive and in place of all other liability of such  
22 provider. The same immunities from liability enjoyed by such  
23 subcontractor provider shall extend as well to each employee  
24 of the subcontractor when such employee is acting in  
25 furtherance of the subcontractor's business. Such immunities  
26 shall not be applicable to a subcontractor or an employee who  
27 acts in a culpably negligent manner or with unprovoked  
28 physical aggression when such acts result in injury or death  
29 or such acts proximately cause such injury or death, nor shall  
30 such immunities be applicable to employees of the same  
31 subcontractor when each is operating in the furtherance of the

1 subcontractor's business, but they are assigned primarily to  
2 unrelated works within private or public employment. The same  
3 immunity provisions enjoyed by a subcontractor shall also  
4 apply to any sole proprietor, partner, corporate officer or  
5 director, supervisor, or other person who in the course and  
6 scope of his or her duties acts in a managerial or  
7 policymaking capacity and the conduct which caused the alleged  
8 injury arose within the course and scope of said managerial or  
9 policymaking duties and was not a violation of a law, whether  
10 or not a violation was charged, for which the maximum penalty  
11 which may be imposed does not exceed 60 days' imprisonment as  
12 set forth in s. 775.082.

13 (g) The Legislature is cognizant of the increasing  
14 costs of goods and services each year and recognizes that  
15 fixing a set amount of compensation actually has the effect of  
16 a reduction in compensation each year. Accordingly, the  
17 conditional limitation on noneconomic damages in this section  
18 shall be increased at the rate of 5 percent each year,  
19 prorated from the effective date of this paragraph to the date  
20 at which noneconomic damages subject to such limitation are  
21 awarded by final judgment or settlement.

22 (h) If any paragraph, sentence, clause, phrase, or  
23 word of this subsection is for any reason held or declared to  
24 be unconstitutional, invalid, inoperative, ineffective,  
25 inapplicable, or void, such invalidity or unconstitutionality  
26 shall not affect the portions of this subsection not so held  
27 to be unconstitutional, void, invalid, or ineffective, or  
28 affect the application of this subsection to other  
29 circumstances not so held to be invalid, it being the express  
30 legislative intent that any such unconstitutional, illegal,  
31 invalid, ineffective, inapplicable, or void portion or

1 portions of this subsection did not induce its passage, and  
2 that without the inclusion of any such unconstitutional,  
3 illegal, invalid, ineffective, or void portions of this  
4 subsection, the Legislature would have enacted the valid and  
5 constitutional portions thereof.

6 (7) Notwithstanding the provisions of s. 215.425, all  
7 documented federal funds earned for the current fiscal year by  
8 the department and community-based agencies that exceed the  
9 amount appropriated by the Legislature shall be distributed  
10 based on a schedule and methodology developed by the  
11 department and approved by the Executive Office of the  
12 Governor. Additional state funds appropriated by the  
13 Legislature for community-based agencies or made available  
14 pursuant to the budgetary amendment process described in s.  
15 216.177 shall be transferred to the community-based agencies.  
16 The community-based agencies shall use any such funds made  
17 available under this subsection for the sole purpose of  
18 providing child welfare services. The department shall amend a  
19 community-based agency's contract to permit expenditure of  
20 these funds.

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

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25 HOUSE SUMMARY

26 Requires community-based agencies contracting to provide  
27 foster care and related services through contract with  
28 the Department of Children and Family Services to obtain  
29 certain liability insurance coverage. Requires such  
30 coverage for such agencies' subcontractors. Provides  
31 limitations on tort actions. Provides exclusiveness of  
liability. Provides for distribution, transfer, and use  
of certain excess or additional funds for foster care and  
related services provided under contract with the  
department.