

Bill No. CS for CS for SB 660

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Brown-Waite moved the following amendment:

Senate Amendment (with title amendment)

On page 4, line 12, through
page 5, line 6, delete those lines

and insert:

(c) Any eligible lead community-based provider, as defined in paragraph (b), or its employees or officers, except as otherwise provided in paragraph (d), must, as a part of its contract, obtain general liability insurance coverage. Damages in any tort action brought against such an eligible lead community-based provider shall be limited to \$1 million net economic damages per claim per incident, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable, and \$200,000 noneconomic damages per claim per incident. This paragraph does not preclude the filing of a claims bill pursuant to section s. 768.28 by the claimant for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of

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1 the date of the settlement or judgment shall be in accordance
2 with s. 768.76. The lead community-based provider shall not be
3 liable in tort for the acts or omissions of its subcontractors
4 or the officers, agents, or employees of its subcontractors.

5 (d) The liability of an eligible lead community-based
6 provider described in this section shall be exclusive and in
7 place of all other liability of such provider. The same
8 immunities from liability enjoyed by such providers shall
9 extend as well to each employee of the provider when such
10 employee is acting in furtherance of the provider's business.
11 Such immunities shall not be applicable to a provider or an
12 employee who acts in a culpably negligent manner or with
13 willful and wanton disregard or unprovoked physical aggression
14 when such acts result in injury or death or such acts
15 proximately cause such injury or death; nor shall such
16 immunities be applicable to employees of the same provider
17 when each is operating in the furtherance of the provider's
18 business, but they are assigned primarily to unrelated works
19 within private or public employment. The same immunity
20 provisions enjoyed by a provider shall also apply to any sole
21 proprietor, partner, corporate officer or director,
22 supervisor, or other person who in the course and scope of his
23 or her duties acts in a managerial or policymaking capacity
24 and the conduct which caused the alleged injury arose within
25 the course and scope of said managerial or policymaking
26 duties. Culpable negligence is defined as reckless
27 indifference or grossly careless disregard of human life.

28 (e) Any subcontractor of an eligible lead
29 community-based provider, as defined in paragraph (b), which
30 is a direct provider of foster care and related services to
31 children and families and its employees or officers, except as

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1 otherwise provided in paragraph (d), must, as a part of its
2 contract, obtain general liability insurance coverage. Damages
3 in any tort action brought against such subcontractor shall be
4 limited to \$1 million net economic damages per claim per
5 incident, including, but not limited to, past and future
6 medical expenses, wage loss, and loss of earning capacity,
7 offset by any collateral source payment paid or payable, and
8 \$200,000 noneconomic damages per claim per incident. This
9 paragraph does not preclude the filing of a claims bill
10 pursuant to section s. 768.28 by the claimant for any amount
11 exceeding the limits specified in this paragraph. Any offset
12 of collateral source payments made as of the date of the
13 settlement or judgment shall be in accordance with s. 768.76.

14 (f) The liability of a subcontractor of an eligible
15 lead community-based provider which is a direct provider of
16 foster care and related services as described in this section
17 shall be exclusive and in place of all other liability of such
18 provider. The same immunities from liability enjoyed by such
19 subcontractor provider shall extend as well to each employee
20 of the subcontractor when such employee is acting in
21 furtherance of the subcontractor's business. Such immunities
22 shall not be applicable to a subcontractor or an employee who
23 acts in a culpably negligent manner or with willful and wanton
24 disregard or unprovoked physical aggression when such acts
25 result in injury or death or such acts proximately cause such
26 injury or death; nor shall such immunities be applicable to
27 employees of the same subcontractor when each is operating in
28 the furtherance of the subcontractor's business, but they are
29 assigned primarily to unrelated works within private or public
30 employment. The same immunity provisions enjoyed by a
31 subcontractor shall also apply to any sole proprietor,

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1 partner, corporate officer or director, supervisor, or other
2 person who in the course and scope of his or her duties acts
3 in a managerial or policymaking capacity and the conduct which
4 caused the alleged injury arose within the course and scope of
5 said managerial or policymaking duties. Culpable negligence is
6 defined as reckless indifference or grossly careless disregard
7 of human life.

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

17 Section 2. If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 invalidity does not affect other provisions or applications of
20 the act which can be given effect without the invalid
21 provision or application, and to this end the provisions of
22 this act are declared severable.

23
24 (Redesignate subsequent sections.)

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27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, lines 11-20, delete those lines

30
31 and insert:

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1 funds; requiring community-based providers and
2 their subcontractors to obtain certain
3 liability insurance; prescribing limits on
4 liability; prescribing immunity of employees of
5 providers and their subcontractors; defining
6 the term "culpable negligence"; declaring
7 legislative intent with respect to inflationary
8 increases in liability amounts; providing for
9 severability; providing an effective date.
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