

Bill No. CS for CS for CS for SB 564, SB 2120 & SB 2620

Amendment No. Barcode 414042

CHAMBER ACTION

Senate

House

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Senator Smith moved the following amendment:

Senate Amendment (with title amendment)

On page 30, between lines 26 and 27,

insert:

Section 17. Subsections (3), (4), (5), (6), (7), (8),
and (9) are added to section 766.110, Florida Statutes, to
read:

766.110 Liability of health care facilities.--

(3) Members of the medical staff of a hospital
licensed under chapter 395 and any professional group
comprised of such persons shall be immune from liability for
all damages in excess of \$100,000 per incident arising from
medical injuries to patients resulting from negligent acts or
omissions of such medical staff members in the performance of
emergency medical services as defined in s. 768.13(2), and no
member of the medical staff of a hospital and no professional
group comprised of such persons shall be liable to pay any
damages in excess of \$100,000 to any person or persons for any
single incident of medical negligence that causes injuries to

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1 a patient or patients in the performance of emergency medical
2 services.

3 (4) Subject to the limitations set forth in subsection
4 (5), every hospital licensed under chapter 395 shall assume
5 liability for all damages in excess of \$100,000 per incident
6 arising from medical injuries to patients resulting from
7 negligent acts or omissions on the part of members of its
8 medical staff in the performance of emergency medical services
9 as defined by s. 768.31(2).

10 (5) No person or persons may recover damages from a
11 hospital licensed under chapter 395, or its insurer, in excess
12 of \$2 million per incident arising from medical injuries to a
13 patient or patients caused by negligent acts or omissions on
14 the part of the hospital or members of the hospital's medical
15 staff in the performance of emergency medical services as
16 defined in s. 768.13(2), and no hospital or hospital insurer
17 shall be liable to pay any claim or judgment in an amount in
18 excess of \$2.5 million for a single incident of medical
19 negligence on the part of the hospital or members of the
20 hospital's medical staff that causes injuries to a patient or
21 patients in the performance of emergency medical services.

22 (6) Because of the overriding public necessity for
23 hospitals to provide trauma care and emergency medical
24 services to the public at large, the state assumes
25 responsibility for payment of reasonable compensation to
26 persons who are barred from recovery of certain damages due to
27 subsection (5). Application for payment of such damages shall
28 commence with the filing of a claims bill. The Legislature
29 shall process a claims bill for compensation under this
30 subsection in the same manner as a claims bill that seeks
31 compensation for damages barred from recovery under the

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1 doctrine of sovereign immunity.

2 (7) No attorney may charge, demand, receive, or
3 collect, for services rendered, fees in excess of 25 percent
4 of any amount awarded by the Legislature pursuant to
5 subsection (6).

6 (8) Nothing in this section shall be construed to
7 impair the contractual or common law remedies available to a
8 hospital to recover contribution, indemnity, or equitable
9 subrogation from members of its medical staff, any
10 professional group comprises of such persons, or their
11 insurer.

12 (9) Nothing in this section constitutes a waiver of
13 sovereign immunity under s. 768.28, nor shall this section
14 impair the immunities currently recognized for public
15 hospitals or teaching hospitals as defined in s. 408.07.

16
17 (Redesignate subsequent sections.)

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

21 And the title is amended as follows:

22 On page 2, line 27, following the semicolon

23
24 insert:

25 amending s. 766.110, F.S.; limiting liability
26 of health care providers providing emergency
27 care services in hospitals; providing for
28 hospitals and the state to assume a certain
29 part of liability for negligence by such
30 providers; providing a limit on attorney's
31 fees;