

Bill No. SB 182

Barcode 985862

CHAMBER ACTION

Senate

House

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The Committee on Children and Families (Lynn) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 394.9085, Florida Statutes, is created to read:

394.9085 Behavioral provider liability.--

(1) In any tort action based on services provided for crisis stabilization brought against a detoxification program defined in s. 397.311(18)(b), an addictions receiving facility defined in s. 397.311(18)(a), or a designated public receiving facility, as defined in s. 394.455(26), net economic damages shall be limited to \$1 million per liability claim, including, but not limited to past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid in accordance with s. 768.76. In any tort action based on services provided for crisis stabilization, brought against any detoxification program defined in s.

Bill No. SB 182

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1 397.311(18)(b), an addictions receiving facility defined in s.
 2 397.311(18)(a), or a designated public receiving facility, as
 3 defined in s. 394.455(26), non-economic damages shall be
 4 limited to \$200,000 per claim. Any claim may be settled up to
 5 policy limits without further act of the Legislature. A claims
 6 bill may be brought on behalf of a claimant pursuant to s.
 7 768.28 for any amount exceeding the limits specified in this
 8 paragraph. Any costs in defending actions brought under this
 9 section shall be assumed by the provider or its insurer.

10 (2) The liability of a detoxification program defined
 11 in s. 397.311(18)(b), an addictions receiving facility defined
 12 in s. 397.311(18)(a), or any designated public receiving
 13 facility, as defined in s. 394.455(26), shall be exclusive and
 14 in place of all other liability of such provider. The same
 15 immunities from liability enjoyed by such providers shall
 16 extend as well to each employee of the provider when such
 17 employee is acting in furtherance of the provider's
 18 responsibilities under its contract with the department. Such
 19 immunities shall not be applicable to a provider or employee
 20 who acts in a culpably negligent manner or with willful and
 21 wanton disregard or unprovoked physical aggression when such
 22 acts result in injury or death.

23 (3) The eligible provider under this section must, as
 24 part of its contract, obtain and maintain a minimum of \$1
 25 million per claim and \$3 million per incident in general
 26 liability coverage.

27 (4) This subsection does not designate a person who
 28 provides contracted services to the Department of Children and
 29 Family Services as an employee or agent of the state for
 30 purposes of chapter 440.

31 (5) The Legislature is cognizant of the increasing

Bill No. SB 182

Barcode 985862

1 costs of goods and services each year and recognizes that
 2 fixing a set amount of compensation actually has the effect of
 3 a reduction in compensation each year. Accordingly, the
 4 conditional limitations on damages in this section shall be
 5 increased at the rate of 5 percent each year, prorated from
 6 the effective date of this paragraph to the date at which
 7 damages subject to such limitations are awarded by final
 8 judgment or settlement.

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

12 And the title is amended as follows:

13 Delete everything before the enacting clause

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15 and insert:

16 A bill to be entitled

17 An act relating to community behavioral health
 18 agencies; creating s. 394.9085, F.S.; providing that certain
 19 facilities or programs defined in chapters 394 and 397, F.S.,
 20 shall have liability limits in tort actions under certain
 21 circumstances; limiting net economic damages allowed per
 22 claim; requiring that damages be offset by collateral source
 23 payment in accordance with s. 768.76, F.S.; providing for
 24 claims bills to be filed with the Legislature; requiring costs
 25 to defend actions be assumed by the provider or its insurer;
 26 providing for occasions that immunities enjoyed by the
 27 provider extend to the employee; requiring that providers
 28 obtain and maintain specified liability coverage; specifying
 29 that persons providing contractual services to the state are
 30 not considered agents or employees under chapter 490, F.S.;

31 providing for an annual increase in the conditional

Bill No. SB 182

Barcode 985862

1 limitations on damages; providing an effective date.

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