



1 facility as defined in s. 397.311(18)(a), or a designated  
2 public receiving facility as defined in s. 394.455(26), net  
3 economic damages shall be limited to \$1 million per liability  
4 claim, including, but not limited to, past and future medical  
5 expenses, wage loss, and loss of earning capacity, offset by  
6 any collateral source payment paid in accordance with s.  
7 768.76. In any tort action based on services provided for  
8 crisis stabilization brought against any detoxification  
9 program as defined in s. 397.311(18)(b), an addictions  
10 receiving facility as defined in s. 397.311(18)(a), or a  
11 designated public receiving facility as defined in s.  
12 394.455(26), noneconomic damages shall be limited to \$200,000  
13 per claim. Any claim may be settled up to policy limits  
14 without further act of the Legislature. A claims bill may be  
15 brought on behalf of a claimant pursuant to s. 768.28 for any  
16 amount exceeding the limits specified in this subsection. Any  
17 costs in defending actions brought under this section shall be  
18 assumed by the provider or its insurer.

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

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

5       (4) This section does not designate a person who  
6 provides contracted services to the Department of Children and  
7 Family Services as an employee or agent of the state for  
8 purposes of ch. 440.

9       (5) The Legislature is cognizant of the increasing  
10 costs of goods and services each year and recognizes that  
11 fixing a set amount of compensation actually has the effect of  
12 a reduction in compensation each year. Accordingly, the  
13 conditional limitations on damages in this section shall be  
14 increased at the rate of 5 percent each year, prorated from  
15 the July 1, 2005, to the date at which damages subject to such  
16 limitations are awarded by final judgment or settlement.

17           Section 2. This act shall take effect July 1, 2005.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 182  
4 Removes the provisions amending s. 768.28, F.S., and instead  
5 creates s. 394.90085, F.S.  
6 Removes the provision designating certain substance abuse  
7 treatment providers as agents of the state for the purposes of  
8 sovereign immunity.  
9 Takes out the provision granting substance abuse provider  
10 immunity for publicly funded services.  
11 Eliminates the requirement that contracts provide for the  
12 indemnification of the state by the agent for liabilities  
13 incurred up to the limits set out in law.  
14 Provides that facilities or programs defined in s.  
15 397.311(18)(b), s.397.311(18)(a), and s. 394.455(26), F.S.,  
16 shall have specified liability limits in tort actions that are  
17 based on services for crisis stabilization.  
18 Specifies that damages awarded must be offset by any  
19 collateral source payment paid in accordance with s. 768.76,  
20 F.S.  
21 Requires that the costs of defending actions brought under  
22 this section must be assumed by the provider or its insurer.  
23 Specifies that immunities enjoyed by the provider extend to  
24 employees under certain conditions.  
25 Provides that, as a part of the contract, providers must  
26 obtain and maintain a specified amount of general liability  
27 coverage.  
28 Specifies that limitations on damages specified by this act  
29 shall be increased at the rate of five percent each year.  
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