

Bill No. SB 280

Barcode 942068

CHAMBER ACTION

Senate

House

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The Committee on Health and Human Services Appropriations
(Peaden) 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)(a) In any negligence action for damages for
personal injury or wrongful death arising out of the provision
of services for crisis stabilization brought against a
detoxification program, an addictions receiving facility, or a
designated public receiving facility, 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. In computing net economic
damages, such damages shall be offset by any collateral source
payment paid in accordance with s. 768.76.

(b) In any negligence action for damages for personal

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1 injury or wrongful death arising out of the provision of
 2 services for crisis stabilization brought against any
 3 detoxification program, an addictions receiving facility, or a
 4 designated public receiving facility, noneconomic damages
 5 shall be limited to \$200,000 per claim.

6 (c) Any costs in defending actions brought under this
 7 section shall be assumed by the provider or its insurer.

8 (2) The limitations on liability of a detoxification
 9 program, an addictions receiving facility, or any designated
 10 public receiving facility as described in subsection (1) shall
 11 be exclusive. Such limitations apply to each employee of the
 12 provider when the employee is acting in furtherance of the
 13 provider's responsibilities under its contract with the
 14 department. Such limitations do not apply to a provider or
 15 employee who acts in a culpably negligent manner or with
 16 willful and wanton disregard or unprovoked physical aggression
 17 if such acts result in injury or death.

18 (3) The eligible provider under this section must, as
 19 part of its contract, obtain and maintain an insurance policy
 20 providing a minimum of \$1 million per claim and \$3 million per
 21 incident in coverage for claims described in subsection (1).

22 (4) This section does not designate a person who
 23 provides contracted services to the department as an employee
 24 or agent of the state for purposes of chapter 440.

25 (5) The Legislature is cognizant of the increasing
 26 costs of goods and services each year and recognizes that
 27 fixing a set amount of compensation actually has the effect of
 28 a reduction in compensation each year. Accordingly, the
 29 conditional limitations on damages in this section shall be
 30 increased at the rate of 5 percent each year, prorated from
 31 July 1, 2006, to the date at which damages subject to such

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1 limitations are awarded by final judgment or settlement.

2 (6) For purposes of this section, the terms
3 "detoxification program," "addictions receiving facility," and
4 "receiving facility" have the same meanings as those provided
5 in ss. 397.311(18)(b), 397.311(18)(a), and 394.455(26),
6 respectively.

7 (7) This section does not waive sovereign immunity for
8 any governmental unit or other entity protected by sovereign
9 immunity. Section 768.28 shall continue to apply to all
10 governmental units and such entities.

11 Section 2. This act shall take effect July 1, 2006.

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

15 And the title is amended as follows:

16 Delete everything before the enacting clause

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18 and insert:

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A bill to be entitled

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An act relating to community behavioral health
agencies; creating s. 394.9085, F.S.; providing
that certain facilities or programs have
liability limits in negligence actions under
certain circumstances; limiting net economic
damages allowed per claim; requiring that
damages be offset by collateral source payment
in accordance with s. 768.76, F.S.; requiring
that costs to defend actions be assumed by the
provider or its insurer; specifying occasions
upon which the limitations on liability enjoyed
by the provider extend to the employee;

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1 requiring that providers obtain and maintain
2 specified liability coverage; specifying that
3 persons providing contractual services to the
4 state are not considered agents or employees
5 under ch. 440, F.S.; providing for an annual
6 increase in the conditional limitations on
7 damages; providing definitions; providing
8 construction; preserving sovereign immunity for
9 governmental units and entities protected by
10 sovereign immunity; providing an effective
11 date.

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