

By Senator Fasano

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1 A bill to be entitled
 2 An act relating to community behavioral health
 3 agencies; creating s. 394.9085, F.S.; providing
 4 that certain facilities or programs defined in
 5 chs. 394 and 397, F.S., have liability limits
 6 in tort actions under certain circumstances;
 7 limiting net economic damages allowed per
 8 claim; requiring that damages be offset by
 9 collateral-source payment in accordance with s.
 10 768.76, F.S.; providing for claims bills to be
 11 filed with the Legislature; requiring that
 12 costs to defend actions be assumed by the
 13 provider or its insurer; specifying occasions
 14 upon which immunities enjoyed by the provider
 15 extend to the employee; requiring that
 16 providers obtain and maintain specified
 17 liability coverage; specifying that persons
 18 providing contractual services to the state are
 19 not considered agents or employees under ch.
 20 440, F.S.; providing for an annual increase in
 21 the conditional limitations on damages;
 22 providing an effective date.

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 24 Be It Enacted by the Legislature of the State of Florida:

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

28 394.9085 Behavioral provider liability.--
 29 (1) In any tort action based on services provided for
 30 crisis stabilization brought against a detoxification program
 31 as defined in s. 397.311(18)(b), an addictions receiving

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 extend as well to each employee of the provider when
26 the employee is acting in furtherance of the provider's
27 responsibilities under its contract with the department. Such
28 immunities do not apply to a provider or employee who acts in
29 a culpably negligent manner or with willful and wanton
30 disregard or unprovoked physical aggression if such acts
31 result in injury or death.

