

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Gaetz offered the following:

3
4 **Amendment (with title amendment)**

5 Between lines 70 and 71, insert:

6 Section 2. Subsection (4) of section 766.102, Florida
7 Statutes, is amended to read:

8 766.102 Medical negligence; standards of recovery; expert
9 witness.—

10 (4) (a) The Legislature is cognizant of the changing trends
11 and techniques for the delivery of health care in this state and
12 the discretion that is inherent in the diagnosis, care, and
13 treatment of patients by different health care providers. The
14 failure of a health care provider to order, perform, or
15 administer supplemental diagnostic tests is ~~shall~~ not ~~be~~
16 actionable if the health care provider acted in good faith and
17 with due regard for the prevailing professional standard of
18 care.

Amendment No. 1

19 (b) In an action for damages based on death or personal
20 injury which alleges that such death or injury resulted from the
21 failure of a health care provider to order, perform, or
22 administer supplemental diagnostic tests, the claimant has the
23 burden of proving by clear and convincing evidence that the
24 alleged actions of the health care provider represented a breach
25 of the prevailing professional standard of care.
26
27
28

29 -----
30 **T I T L E A M E N D M E N T**

31 Remove line 3 and insert:
32 findings and intent; amending s. 766.102, F.S.; establishing the
33 burden of proof that a claimant must meet in certain damage
34 claims against health care providers based on death or personal
35 injury; amending s. 768.28, F.S.;