

1                                   A bill to be entitled  
 2           An act relating to medical negligence; amending ss.  
 3           400.023, 400.0235, and 429.295, F.S.; conforming  
 4           provisions to changes made by the act; amending s.  
 5           768.21, F.S.; authorizing an adult child who was under  
 6           the care of a legal parental guardian at the time of a  
 7           parent's death to file a medical negligence claim  
 8           under certain circumstances; authorizing the legal  
 9           parental guardian of adult child to file a claim for  
 10          medical negligence under certain circumstances;  
 11          providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14

15           Section 1. Subsection (9) of section 400.023, Florida  
 16 Statutes, is amended to read:

17           400.023 Civil enforcement.—

18           (9) An action under this part for a violation of rights or  
 19 negligence recognized herein is not a claim for medical  
 20 malpractice, and the provisions of s. 768.21(8) and (9) do ~~does~~  
 21 not apply to a claim alleging death of the resident.

22           Section 2. Section 400.0235, Florida Statutes, is amended  
 23 to read:

24           400.0235 Certain provisions not applicable to actions  
 25 under this part.—An action under this part for a violation of

26 | rights or negligence recognized under this part is not a claim  
 27 | for medical malpractice, and the provisions of s. 768.21(8) and  
 28 | (9) do not apply to a claim alleging death of the resident.

29 | Section 3. Section 429.295, Florida Statutes, is amended  
 30 | to read:

31 | 429.295 Certain provisions not applicable to actions under  
 32 | this part.—An action under this part for a violation of rights  
 33 | or negligence recognized herein is not a claim for medical  
 34 | malpractice, and the provisions of s. 768.21(8) and (9) do not  
 35 | apply to a claim alleging death of the resident.

36 | Section 4. Subsection (8) of section 768.21, Florida  
 37 | Statutes, is amended and subsection (9) is added to that  
 38 | section, to read:

39 | 768.21 Damages.—All potential beneficiaries of a recovery  
 40 | for wrongful death, including the decedent's estate, shall be  
 41 | identified in the complaint, and their relationships to the  
 42 | decedent shall be alleged. Damages may be awarded as follows:

43 | (8) The damages specified in subsection (3) are ~~shall~~ not  
 44 | ~~be~~ recoverable by adult children with respect to a claim for  
 45 | medical negligence as defined by s. 766.106(1), unless the  
 46 | decedent had previously been appointed a guardian, as defined in  
 47 | s. 744.102, over the adult child. ~~and~~

48 | (9) The damages specified in subsection (4) are ~~shall~~ not  
 49 | ~~be~~ recoverable by parents of an adult child with respect to  
 50 | claims for medical negligence as defined by s. 766.106(1) unless

HB 149

2019

51 | the parent had previously been appointed a guardian, as defined  
52 | in s. 744.102, over the adult child.

53 |       Section 5. This act shall take effect July 1, 2019.