

By the Committee on Judiciary; and Senator Simmons

590-02768-20

20201668c1

1                   A bill to be entitled  
2           An act relating to damages; amending s. 768.042, F.S.;  
3           requiring that certain medical expenses in personal  
4           injury claims be based on certain usual and customary  
5           charges; specifying what constitutes a usual and  
6           customary charge; deleting an obsolete provision;  
7           providing an effective date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

10  
11           Section 1. Section 768.042, Florida Statutes, is amended to  
12           read:

13           768.042 Damages.—

14           (1) In any action brought in the circuit court to recover  
15           damages for personal injury or wrongful death, the amount of  
16           general damages shall not be stated in the complaint, but the  
17           amount of special damages, if any, may be specifically pleaded  
18           and the requisite jurisdictional amount established for filing  
19           in any court of competent jurisdiction.

20           (2) In any claim for damages relating to personal injury to  
21           a claimant, evidence regarding the past, present, or future  
22           medical expenses must be based on the usual and customary  
23           charges in the community where the medical expenses are, or are  
24           reasonably probable to be, incurred. With respect to past and  
25           present medical expenses, if the claimant is entitled to be  
26           reimbursed through any public or private health insurance or  
27           governmental health coverage, the amounts paid or payable under  
28           the insurance or governmental health coverage shall be presumed  
29           to be the usual and customary medical charges, unless the

590-02768-20

20201668c1

30 claimant shows that such amounts are inadequate under the  
31 circumstances. With respect to damages for future medical  
32 expenses, evidence of the availability of private or public  
33 health insurance coverage may be considered along with other  
34 relevant evidence. Usual and customary charges may not include  
35 increased or additional charges based on the outcome of the  
36 litigation ~~The provisions of this section shall not apply to any~~  
37 ~~complaint filed prior to May 20, 1975.~~

38 Section 2. This act shall take effect July 1, 2020.