

By the Committees on Health Policy; and Judiciary; and Senator
Simmons

588-03477A-20

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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 charges;
5 specifying what charges are admissible as evidence;
6 prohibiting certain charges from being included as
7 usual and customary charges; deleting an obsolete
8 provision; providing an effective date.

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

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

14 768.042 Damages.—

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

21 (2) In any claim for damages relating to personal injury to
22 a claimant, evidence regarding the past, present, or future
23 medical expenses must be based on the usual and customary
24 charges in the community where the medical expenses are, or are
25 reasonably probable to be, incurred. With respect to past and
26 present medical expenses, if the claimant is entitled to be
27 reimbursed through any public or private health insurance or
28 governmental health coverage, the charges from an independent,
29 nonprofit, statistically reliable benchmarking database that has

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30 been in existence for the last 5 years and that qualifies for
31 nonprofit status under s. 501(c)(3) of the United States
32 Internal Revenue Code are admissible as evidence of the usual
33 and customary medical charges. With respect to damages for
34 future medical expenses, evidence of the reasonableness of any
35 such medical expenses may be considered along with other
36 relevant evidence. Usual and customary charges may not include
37 increased or additional charges based on the outcome of the
38 litigation ~~The provisions of this section shall not apply to any~~
39 ~~complaint filed prior to May 20, 1975.~~

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