



825674

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

The Committee on Judiciary (Rouson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 768.755, Florida Statutes, is created to  
read:

768.755 Damages recoverable for costs of past health care  
services, procedures, or equipment; evidence of usual and  
customary rates; applicability.-

(1) As used in this section, the term "charge benchmarks,"  
for particular health care services, procedures, or equipment,



825674

12 means the value, at a specified percentile rank within a range  
13 of benchmarks, which corresponds with the distribution of the  
14 full, nondiscounted standard rates charged by health care  
15 providers in the same or a similar specialty in the same  
16 geographical area under the current official code for such  
17 services, procedures, or equipment provided out-of-network or to  
18 uninsured individuals.

19 (2) In a personal injury or wrongful death action to which  
20 this part applies, for any claim of damages for the costs of  
21 health care services, procedures, or equipment provided to a  
22 claimant which are unpaid and remain due and payable, evidence  
23 of the usual and customary rates for such services, procedures,  
24 or equipment must be introduced at trial as follows:

25 (a) If the claimant has coverage for such services,  
26 procedures, or equipment from a governmental program but, in  
27 lieu of such program coverage, chooses for such services,  
28 procedures, or equipment to be provided by a health care  
29 provider who contractually agrees to defer payment until  
30 recovery from the claimant's damages award or settlement,  
31 evidence must be introduced at trial of the government program's  
32 usual and customary rates for such services, procedures, or  
33 equipment at the 85th percentile rank of the charge benchmarks  
34 as reported in the benchmarking database maintained by FAIR  
35 Health, Inc.

36 (b) If the claimant has coverage for such services,  
37 procedures, or equipment from a commercial insurance carrier or  
38 under a plan self-funded by the claimant's employer but, in lieu  
39 of such insurance coverage, chooses for such services,  
40 procedures, or equipment to be provided by a health care



825674

41 provider who contractually agrees to defer payment until  
42 recovery from the claimant's damages award or settlement,  
43 evidence must be introduced at trial of the usual and customary  
44 rates for such services, procedures, or equipment at the 85th  
45 percentile rank of the charge benchmarks as reported in the  
46 benchmarking database maintained by FAIR Health, Inc.

47 (c) If the claimant does not have coverage for such  
48 services, procedures, or equipment, evidence must be introduced  
49 at trial of the usual and customary rates for such services,  
50 procedures, or equipment at the 85th percentile rank of the  
51 charge benchmarks as reported in the benchmarking database  
52 maintained by FAIR Health, Inc.

53  
54 The usual and customary rates required to be introduced pursuant  
55 to this subsection are presumed to be reasonable rates.

56 Section 2. This act shall take effect July 1, 2021.

57  
58 ===== T I T L E A M E N D M E N T =====

59 And the title is amended as follows:

60 Delete everything before the enacting clause  
61 and insert:

62 A bill to be entitled  
63 An act relating to medical expenses; creating s.  
64 768.755, F.S.; defining the term "charge benchmarks";  
65 requiring that evidence of the usual and customary  
66 rates for certain services, procedures, or equipment  
67 be introduced at trial in a specified manner;  
68 specifying that such usual and customary rates are  
69 presumed to be reasonable rates; providing an



825674

70

effective date.