



260514

LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (5) and (8) of section 768.21,
Florida Statutes, are amended, and subsections (3) and (4) of
that section are republished, to read:

768.21 Damages.—All potential beneficiaries of a recovery
for wrongful death, including the decedent's estate, shall be
identified in the complaint, and their relationships to the



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11 decedent shall be alleged. Damages may be awarded as follows:

12 (3) Minor children of the decedent, and all children of the
13 decedent if there is no surviving spouse, may also recover for
14 lost parental companionship, instruction, and guidance and for
15 mental pain and suffering from the date of injury. For the
16 purposes of this subsection, if both spouses die within 30 days
17 of one another as a result of the same wrongful act or series of
18 acts arising out of the same incident, each spouse is considered
19 to have been predeceased by the other.

20 (4) Each parent of a deceased minor child may also recover
21 for mental pain and suffering from the date of injury. Each
22 parent of an adult child may also recover for mental pain and
23 suffering if there are no other survivors.

24 (5) (a) Medical or funeral expenses due to the decedent's
25 injury or death may be recovered by a survivor who has paid
26 them.

27 (b) Notwithstanding chapter 766, the presuit procedures in
28 chapter 766 do not apply to a wrongful death action in which the
29 estate and survivors do not seek noneconomic damages, but seek
30 reimbursement of or recovery for medical costs paid by or
31 incurred by the decedent in the course of treatment or care
32 related to medical negligence that resulted in the decedent's
33 death.

34 (8) The damages specified in subsection (3) are shall not
35 be recoverable by an adult child ~~children~~ and the damages
36 specified in subsection (4) are shall not be recoverable by a
37 parent ~~parents~~ of an adult child with respect to claims for
38 medical negligence as defined by s. 766.106(1), unless the
39 survivor regularly relied on the decedent for services and



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40 financial support and had a reasonable expectation that those
41 services and support would continue to be provided at the same
42 or similar level in the future.

43 Section 2. This act shall take effect July 1, 2022.

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45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete everything before the enacting clause

48 and insert:

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A bill to be entitled

50 An act relating to wrongful death actions; amending s.

51 768.21, F.S.; limiting the application of presuit

52 procedures for medical negligence claims in certain

53 wrongful death actions; allowing certain survivors to

54 recover noneconomic damages for medical negligence if

55 they relied upon the decedent for services and

56 financial support; providing an effective date.