

HB 1435

2023

1                   A bill to be entitled  
2           An act relating to damages recoverable in wrongful  
3           death actions; amending ss. 400.023, 400.0235, and  
4           429.295, F.S.; conforming provisions to changes made  
5           by the act; amending s. 768.21, F.S.; removing a  
6           provision that prohibits adult children and parents of  
7           adult children from recovering certain damages in  
8           medical negligence suits; providing an effective date.  
9

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

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

14           400.023 Civil enforcement.—

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

19           Section 2. Section 400.0235, Florida Statutes, is amended  
20 to read:

21           400.0235 Certain provisions not applicable to actions  
22 under this part.—An action under this part for a violation of  
23 rights or negligence recognized under this part is not a claim  
24 for medical malpractice, ~~and the provisions of s. 768.21(8) do~~  
25 ~~not apply to a claim alleging death of the resident.~~

26 Section 3. Section 429.295, Florida Statutes, is amended  
 27 to read:

28 429.295 Certain provisions not applicable to actions under  
 29 this part.—An action under this part for a violation of rights  
 30 or negligence recognized herein is not a claim for medical  
 31 malpractice, ~~and the provisions of s. 768.21(8) do not apply to~~  
 32 ~~a claim alleging death of the resident.~~

33 Section 4. Subsection (8) of section 768.21, Florida  
 34 Statutes, is amended, and subsections (3) and (4) of that  
 35 section are republished, to read:

36 768.21 Damages.—All potential beneficiaries of a recovery  
 37 for wrongful death, including the decedent's estate, shall be  
 38 identified in the complaint, and their relationships to the  
 39 decedent shall be alleged. Damages may be awarded as follows:

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

48 (4) Each parent of a deceased minor child may also recover  
 49 for mental pain and suffering from the date of injury. Each  
 50 parent of an adult child may also recover for mental pain and

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51 suffering if there are no other survivors.

52 ~~(8) The damages specified in subsection (3) shall not be~~  
53 ~~recoverable by adult children and the damages specified in~~  
54 ~~subsection (4) shall not be recoverable by parents of an adult~~  
55 ~~child with respect to claims for medical negligence as defined~~  
56 ~~by s. 766.106(1).~~

57 Section 5. This act shall take effect July 1, 2023.