

By Senator Book

35-01497-23

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

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

28 429.295 Certain provisions not applicable to actions under
29 this part.—An action under this part for a violation of rights

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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 the
41 decedent if there is no surviving spouse, may also recover for
42 lost parental companionship, instruction, and guidance and for
43 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
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.