

By Senator Book

35-00970-24

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

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

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13 Section 1. This act may be cited as the "Keith Davis Family
14 Protection Act."

15 Section 2. Subsection (9) of section 400.023, Florida
16 Statutes, is amended to read:

17 400.023 Civil enforcement.—

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

22 Section 3. Section 400.0235, Florida Statutes, is amended
23 to read:

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

29 Section 4. Section 429.295, Florida Statutes, is amended to

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30 read:

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

36 Section 5. Subsection (8) of section 768.21, Florida
37 Statutes, is amended, and subsections (3) and (4) of that
38 section are republished, to read:

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

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

51 (4) Each parent of a deceased minor child may also recover
52 for mental pain and suffering from the date of injury. Each
53 parent of an adult child may also recover for mental pain and
54 suffering if there are no other survivors.

55 ~~(8) The damages specified in subsection (3) shall not be~~
56 ~~recoverable by adult children and the damages specified in~~
57 ~~subsection (4) shall not be recoverable by parents of an adult~~
58 ~~child with respect to claims for medical negligence as defined~~

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59 ~~by s. 766.106(1).~~

60 Section 6. This act shall take effect July 1, 2024.