

By Senator Grall

29-00806-26

20261700

A bill to be entitled

An act relating to recovery of damages for medical negligence resulting in death; amending s. 768.21, F.S.; deleting a provision that precludes certain persons from recovering damages for medical negligence resulting in death; amending ss. 400.023, 400.0235, and 429.295, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (8) of section 768.21, Florida Statutes, is 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 decedent shall be alleged. Damages may be awarded as follows:

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

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

29-00806-26

20261700

30 suffering if there are no other survivors.

31 ~~(8) The damages specified in subsection (3) shall not be~~
32 ~~recoverable by adult children and the damages specified in~~
33 ~~subsection (4) shall not be recoverable by parents of an adult~~
34 ~~child with respect to claims for medical negligence as defined~~
35 ~~by s. 766.106(1).~~

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

38 400.023 Civil enforcement.—

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

43 Section 3. Section 400.0235, Florida Statutes, is amended
44 to read:

45 400.0235 Certain provisions not applicable to actions under
46 this part.—An action under this part for a violation of rights
47 or negligence recognized under this part is not a claim for
48 medical malpractice, and ~~the provisions of s. 768.21(8) do not~~
49 ~~apply to a claim alleging death of the resident.~~

50 Section 4. Section 429.295, Florida Statutes, is amended to
51 read:

52 429.295 Certain provisions not applicable to actions under
53 this part.—An action under this part for a violation of rights
54 or negligence recognized herein is not a claim for medical
55 malpractice, and ~~the provisions of s. 768.21(8) do not apply to~~
56 ~~a claim alleging death of the resident.~~

57 Section 5. This act shall take effect July 1, 2026.