

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/HB 529](#)

TITLE: Community-based Care Lead Agency and Subcontractor Liability

SPONSOR(S): Chamberlin

COMPANION BILL: [SB 660](#) (McClain)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Civil Justice & Claims](#)

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SUMMARY

Effect of the Bill:

CS/HB 529 eliminates the:

- Requirement that a private community-based care lead agency ("CBC") to which the sovereign immunity caps in [s. 768.28, F.S.](#), do not apply and any subcontractors thereof maintain liability insurance as required in current law.
- Annual five percent rate increase for the limitation on damages recoverable in a tort action against a private CBC or a subcontractor thereof as provided in current law, thereby restoring such limitation on damages to the dollar amounts first established by the Legislature in 2014 and preventing an annual rate increase going forward.

The bill provides an effective date of July 1, 2026.

Fiscal or Economic Impact:

The bill will have an indeterminate economic impact on the private sector.

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ANALYSIS

EFFECT OF THE BILL:

CS/HB 529 eliminates the requirement that a private [community-based care lead agency](#) ("CBC") to which the [sovereign immunity](#) caps in [s. 768.28, F.S.](#), do not apply and any subcontractors thereof maintain [liability insurance](#) as required in current law. Practically speaking, under the bill, a CBC or a subcontractor thereof would have the option to purchase liability insurance to limit its own financial liability, but would not be required to do so in order to contract with the State to provide child protection or child welfare services. (Section [1](#)).

Further, the bill eliminates the annual five percent [rate increase](#) for the [limitations on damages](#) recoverable in a [tort action](#) against a private CBC or a subcontractor thereof as provided in current law. Practically speaking, the bill would restore such limitation on damages to the dollar amounts first established by the Legislature in 2014 and prevent an annual rate increase going forward; in other words, the bill would limit:

- Net [economic damages](#) recoverable to \$2 million per liability claim and \$200,000 per automobile claim, including, but not limited to, past and future medical expenses, wage loss, and loss of earning capacity, offset by any collateral source payment paid or payable; and
- [Noneconomic damages](#) recoverable to \$400,000 per claim. (Section [1](#)).

However, the bill retains provisions authorizing anyone who receives an [excess judgment](#) from the court in such a lawsuit to bring a claim bill asking the Legislature to direct the payment of the balance as an act of legislative grace. (Section [1](#)).

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DATE: 2/4/2026

The bill provides an effective date of July 1, 2026. (Section [2](#)).

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill will have an indeterminate economic impact on the private sector, which impact will be positive as to a private CBC or a subcontractor thereof to the extent that it reduces operational costs for such entities and limits their financial liability. However, the economic impact may be negative as to children harmed while in the care of a CBC or a subcontractor thereof:

- Where the CBC or its subcontractor lacks the means to pay damages awarded to such child and does not have liability insurance to cover the loss; or
- Where the child recovers damages above the reduced damages limitation amounts and must then bring a claim bill before the Legislature to request the balance.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Community-Based Care Lead Agencies

The Legislature has determined that foster care and related services¹ should be outsourced to increase the level of safety, security, and stability of children who are or become the State's responsibility; further, the Legislature has found that such outsourcing is of paramount importance to the State.² Thus, Florida law directs the Florida Department of Children and Families ("DCF") to provide child protection and child welfare services to children in the State through contracts with "[community-based care lead agencies](#)" ("CBCs"). A CBC is a single entity with which DCF has a contract for the provision of care³ for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits.⁴ Even so, the Legislature has found that the appropriate care of children is ultimately the State's responsibility, and that outsourcing such care does not relieve the State of its responsibility to ensure that appropriate care is provided.⁵

Children injured due to inadequate care while in the child protection or child welfare system historically lacked the right to recover for such injuries, beyond the sovereign immunity limits specified in [s. 768.28, F.S.](#), as the State itself served as care provider.⁶ With the State's outsourcing of the care of children to CBCs, however, children in the child protection or child welfare systems gained increased protection and rights of recovery in the event of an injury, as some CBCs, being private entities, do not benefit from sovereign immunity protections.⁷

¹ "Related services" includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, coordination of mental health services, postplacement supervision, permanent foster care, and family reunification. [S. 409.986, F.S.](#)

² [S. 409.993, F.S.](#)

³ "Care" means services of any kind which are designed to facilitate a child remaining safely in his or her own home, returning safely to his or her own home if he or she is removed from the home, or obtaining an alternative permanent home if he or she cannot remain at home or be returned home. The term includes, but is not limited to, prevention, diversion, and related services. [S. 409.986, F.S.](#)

⁴ However, Florida law authorizes DCF's Secretary to authorize more than one eligible CBC within a single county if doing so will result in more effective delivery of services to children. [Id.](#)

⁵ [Id.](#)

⁶ [S. 409.993, F.S.](#)

⁷ [Id.](#)

Mandatory Liability Insurance

In recognition of the financial liability faced by private CBCs in contract with the State, in 2014, the Legislature required such CBCs and any subcontractors thereof to maintain liability insurance.⁸ Thus, under current law, a private CBC, and any of its subcontractors, generally must, as a part of its contract, obtain general liability insurance coverage with coverage limits of a minimum of \$1 million per occurrence and a policy period aggregate limit of \$3 million.⁹ The private CBC and its subcontractors must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain on their personal automobiles minimum bodily injury liability insurance in the amount of \$100,000 per person per any one automobile accident, and subject to such limits for each person, \$300,000 for all damages resulting from any one automobile accident.¹⁰ Alternatively, in lieu of such personal motor vehicle insurance, Florida law authorizes the private CBC's or subcontractor's casualty, liability, or motor vehicle insurance carrier to provide non-owned automobile liability coverage at a minimum limit of \$1 million.¹¹ However, some private CBCs are now alleging a difficulty in obtaining or maintaining the required insurance, claiming that, because they and their subcontractors provide care for children, the insurance premiums are either prohibitively expensive or the required coverage is otherwise unavailable due to a reluctance on the part of insurers to insure their activities.

Damages Limitations

In addition to imposing liability insurance requirements on private CBCs and subcontractors thereof, in 2014, the Legislature also limited the damages recoverable in a tort action brought against such a CBC or subcontractor.¹² Specifically, the Legislature generally limited:

- Net **economic damages**¹³ recoverable to \$2 million per liability claim and \$200,000 per automobile claim, including, but not limited to, past and future medical expenses,¹⁴ wage loss,¹⁵ and loss of earning capacity,¹⁶ offset by any collateral source payment paid or payable; and
- **Noneconomic damages**¹⁷ recoverable to \$400,000 per claim.¹⁸

However, “cognizant of the increasing costs of goods and services each year and [recognizing] that fixing a set amount of compensation has the effect of [an annual] reduction in compensation,” the Legislature also provided that the damages limitations will **increase** at the rate of five percent each year, prorated from July 1, 2014, to the date at which damages subject to such limitations are awarded by final judgment or settlement.¹⁹ Thus, the dollar values specified in statute for the limitations on economic and non-economic damages serve merely as a floor; in reality, given the annual percentage increases since July 1, 2014, the limitations on such damages currently stand at approximately:

- \$3,519,521 per liability claim and \$351,952 per automobile claim for net economic damages recoverable; and

⁸ Ch. 2014-224, Laws of Fla.

⁹ [S. 409.993, F.S.](#)

¹⁰ *Id.*

¹¹ This insurance provides liability insurance for an automobile that the CBC uses in connection with its business but does not own, lease, rent, or borrow. This coverage includes an automobile owned by an employee of the CBC or a member of the employee's household, but only while the automobile is used in connection with the CBC's business. *Id.*

¹² Ch. 2014-224, Laws of Fla.

¹³ “Economic damages” are tangible financial damages – that is, the calculatable costs incurred by a person injured due to the actions of another, which damages can be proved by things such as receipts, bills, and pay stubs. Justia, *Economic Damages in Personal Injury Lawsuits*, <https://www.justia.com/injury/negligence-theory/economic-damages/> (last visited Jan. 31, 2026).

¹⁴ “Past and future medical expenses” compensate a person injured due to the actions of another for the medical expenses the injured person already incurred due to such injury, and for the medical expenses such person will incur in the future due to such injury. *Id.*

¹⁵ “Wage loss” compensates a person injured due to the actions of another for wages unpaid while the injured person was out of work due to such injury. *Id.*

¹⁶ “Loss of earning capacity” compensates a person injured due to the actions of another who, as a result of such injury, suffers a reduction in his or her future ability to earn income. *Id.*

¹⁷ “Noneconomic damages” are intangible damages, such as damages for pain and suffering. *Id.*

¹⁸ [S. 409.993, F.S.](#)

¹⁹ *Id.*

- \$703,904 per claim for noneconomic damages recoverable.

In any case, a claim bill may be brought before the Legislature pursuant to [s. 768.28, F.S.](#), to ask the Legislature to direct the payment of any amount awarded in excess of the limits specified as an act of legislative grace.²⁰

Tort Actions

One of the goals of the civil justice system is to redress tortious conduct, or “torts.” A tort is a wrong for which the law provides a remedy. Torts are generally divided into two categories,²¹ as follows:

- An intentional tort, examples of which include an assault, battery, or false imprisonment.
- Negligence, which is a tort that is unintentionally committed. To prevail in a negligence lawsuit, the plaintiff (that is, the party seeking the remedy) must demonstrate that the:
 - Defendant (that is, the party sued) had a legal duty of care requiring him or her to conform to a certain standard of conduct to protect others, including the plaintiff, from unreasonable risks;
 - Defendant breached his or her duty of care by failing to conform to the required standard;
 - Defendant’s breach caused the plaintiff to suffer an injury; and
 - Plaintiff suffered actual damage or loss resulting from such injury.²²

Sovereign Immunity

“Sovereign immunity” is a foundational legal doctrine derived from English common law – rooted in the concept that “the king can do no wrong” – which principle shields federal and state governments from being sued without their consent.²³ [Article X, s. 13 of the Florida Constitution](#) allows the Legislature to waive this immunity, which it has done for suits in tort against the State (and its agencies and subdivisions) for damages resulting from the negligence of government employees acting within the scope of their employment.²⁴ Such liability exists only where a private person would be liable for the same conduct, and the waiver applies only to the recovery of damages for “injury or loss of property, personal injury, or death...”²⁵

However, [s. 768.28\(5\), F.S.](#), caps the damages recoverable in a tort action against the State, or an agency or subdivision thereof, at \$200,000 per person and \$300,000 per incident.²⁶ Although a court may enter an [excess judgment](#) against the governmental entity (that is, a judgment above the amount of the statutory caps), absent passage of a claim bill by the Legislature, the prevailing plaintiff cannot collect more than the amount of the statutory caps from the governmental entity.²⁷

²⁰ *Id.*

²¹ Under a third category, not generally applicable here – that is, strict liability – a defendant may be held liable without a showing of negligence or intent if the plaintiff proves that the defendant’s product or action caused the injury in question. Strict liability generally falls into three major categories: products liability, abnormally dangerous activities, and dangerous animal possession.

²² 6 *Florida Practice Series* s. 1.1; see *Barnett v. Dept. of Fin. Serv.*, 303 So. 3d 508 (Fla. 2020).

²³ Legal Information Institute, *Sovereign Immunity*, https://www.law.cornell.edu/wex/sovereign_immunity (last visited Jan. 31, 2026).

²⁴ [S. 768.28\(1\), F.S.](#)

²⁵ *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting [s. 768.28\(1\), F.S.](#)) (internal punctuation omitted).

²⁶ [S. 768.28\(5\), F.S.](#)

²⁷ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla. 2005).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	11 Y, 3 N, As CS	2/3/2026	Jones	Mathews

THE CHANGES ADOPTED BY THE COMMITTEE:	The PCS differed from the underlying bill in that it: <ul style="list-style-type: none"> • Removed liability insurance requirements for an eligible community-based care lead agency. • Removed the ability of an eligible lead agency or a subcontractor thereof to obtain immunity from liability.
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THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
