A bill to be entitled

An act relating to community-based care lead agency and subcontractor liability; amending s. 409.993, F.S.; revising legislative findings; removing liability insurance coverage requirements for community-based care lead agencies; removing liability insurance coverage requirements for subcontractors of community-based care lead agencies; removing a requirement to annually increase certain conditional limitations on damages by a specified percentage; providing an effective date.

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

**Section 1. Section 409.993, Florida Statutes, is amended to read:**

409.993 Lead agencies and subcontractor liability.—

(1) FINDINGS.—

~~(a)~~ The Legislature finds that the state has traditionally provided foster care services to children who are the responsibility of the state. As such, foster children have not had the right to recover for injuries beyond the limitations specified in s. 768.28. The Legislature has determined that foster care and related services should be outsourced pursuant to this section and that the provision of such services is of paramount importance to the state. The purpose of such outsourcing is to increase the level of safety, security, and stability of children who are or become the responsibility of the state. ~~One of the components necessary to secure a safe and stable environment for such children is the requirement that private providers maintain liability insurance. As such, insurance needs to be available and remain available to nongovernmental foster care and related services providers without the resources of such providers being significantly reduced by the cost of maintaining such insurance.~~

~~(b) The Legislature further finds that, by requiring the following minimum levels of insurance, children in outsourced foster care and related services will gain increased protection and rights of recovery in the event of injury than currently provided in s. 768.28.~~

(2) LEAD AGENCY LIABILITY.—

(a) ~~Other than an entity to which s. 768.28 applies, an eligible community-based care lead agency, or its employees or officers, except as otherwise provided in paragraph (b), shall, as a part of its contract, obtain a minimum of $1 million per occurrence with a policy period aggregate limit of $3 million in general liability insurance coverage. The lead agency must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain 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, on their personal automobiles. In lieu of personal motor vehicle insurance, the lead agency's casualty, liability, or motor vehicle insurance carrier may provide nonowned automobile liability coverage. This insurance provides liability insurance for an automobile that the lead agency uses in connection with the lead agency's business but does not own, lease, rent, or borrow. This coverage includes an automobile owned by an employee of the lead agency or a member of the employee's household but only while the automobile is used in connection with the lead agency's business. The nonowned automobile coverage for the lead agency applies as excess coverage over any other collectible insurance. The personal automobile policy for the employee of the lead agency shall be primary insurance, and the nonowned automobile coverage of the lead agency acts as excess insurance to the primary insurance. The lead agency shall provide a minimum limit of $1 million in nonowned automobile coverage.~~ In a tort action brought against an eligible community-based care ~~such a~~ lead agency, other than an entity to which s. 768.28 applies, or brought against an employee of such lead agency, net economic damages shall be limited 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. In any tort action brought against a lead agency, noneconomic damages shall be limited to $400,000 per claim. A claim ~~claims~~ bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76. The lead agency is not liable in tort for the acts or omissions of its subcontractors or the officers, agents, or employees of its subcontractors.

(b) The liability of a lead agency described in this section shall be exclusive and in place of all other liability of such lead agency. The same immunities from liability enjoyed by such lead agencies shall extend to each employee of the lead agency if he or she is acting in furtherance of the lead agency's business, including the transportation of clients served, ~~as described in this subsection,~~ in privately owned vehicles. Such immunities are not applicable to a lead agency or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression if such acts result in injury or death or such acts proximately cause such injury or death. Such immunities are not applicable to employees of the same lead agency when each is operating in the furtherance of the agency's business, but they are assigned primarily to unrelated work within private or public employment.

(c) The same immunity provisions enjoyed by a lead agency also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who, in the course and scope of his or her duties, acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties.

(d) As used in this subsection and subsection (3), the term "culpably negligent manner" means reckless indifference or grossly careless disregard of human life.

(3) SUBCONTRACTOR LIABILITY.—

(a) ~~A subcontractor of an eligible community-based care lead agency that is a direct provider of foster care and related services to children and families, and its employees or officers, except as otherwise provided in paragraph (c), must, as a part of its contract, obtain a minimum of $1 million per occurrence with a policy period aggregate limit of $3 million in general liability insurance coverage. The subcontractor of a lead agency must also require that staff who transport client children and families in their personal automobiles in order to carry out their job responsibilities obtain minimum bodily injury liability insurance in the amount of $100,000 per person in any one automobile accident, and subject to such limits for each person, $300,000 for all damages resulting from any one~~

~~automobile accident, on their personal automobiles. In lieu of personal motor vehicle insurance, the subcontractor's casualty, liability, or motor vehicle insurance carrier may provide nonowned automobile liability coverage. This insurance provides liability insurance for automobiles that the subcontractor uses in connection with the subcontractor's business but does not own, lease, rent, or borrow. This coverage includes automobiles owned by the employees of the subcontractor or a member of the employee's household but only while the automobiles are used in connection with the subcontractor's business. The nonowned automobile coverage for the subcontractor applies as excess coverage over any other collectible insurance. The personal automobile policy for the employee of the subcontractor shall be primary insurance, and the nonowned automobile coverage of the subcontractor acts as excess insurance to the primary insurance. The subcontractor shall provide a minimum limit of $1 million in nonowned automobile coverage.~~ In a tort action brought against a ~~such~~ subcontractor of an eligible community-based care lead agency that is a direct provider of foster care and related services to children and families, or brought against an employee of such subcontractor, net economic damages shall be limited 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. In a



CODING: Words ~~stricken~~ are deletions; words underlined are additions.

tort action brought against such subcontractor, noneconomic damages shall be limited to $400,000 per claim. A claim ~~claims~~ bill may be brought on behalf of a claimant pursuant to s. 768.28 for any amount exceeding the limits specified in this paragraph. Any offset of collateral source payments made as of the date of the settlement or judgment shall be in accordance with s. 768.76.

(b) A subcontractor of a lead agency that is a direct provider of foster care and related services is not liable for the acts or omissions of the lead agency; the department; or the officers, agents, or employees thereof. The limitation on liability established in this paragraph applies to contracts entered into or renewed after July 1, 2025.

(c) The liability of a subcontractor of a lead agency that is a direct provider of foster care and related services as described in this section is exclusive and in place of all other liability of such provider. The same immunities from liability enjoyed by such subcontractor provider extend to each employee of the subcontractor when such employee is acting in furtherance of the subcontractor's business, including the transportation of clients served, ~~as described in this subsection,~~ in privately owned vehicles. Such immunities are not applicable to a subcontractor or an employee who acts in a culpably negligent manner or with willful and wanton disregard or unprovoked physical aggression if such acts result in injury or death or if such acts proximately cause such injury or death. Such immunities are not applicable to employees of the same subcontractor who are operating in the furtherance of the subcontractor's business but are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by a subcontractor also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who, in the course and scope of his or her duties, acts in a managerial or policymaking capacity and the conduct that caused the alleged injury arose within the course and scope of those managerial or policymaking duties.

~~(4) LIMITATIONS ON DAMAGES.—The Legislature is cognizant of the increasing costs of goods and services each year and recognizes that fixing a set amount of compensation has the effect of a reduction in compensation each year. Accordingly, the conditional limitations on damages in this section shall be increased at the rate of 5 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.~~

**Section 2.** This act shall take effect July 1, 2026.