

1 A bill to be entitled
 2 An act relating to community-based care lead agency
 3 and subcontractor liability; amending s. 409.993,
 4 F.S.; revising legislative findings; removing
 5 liability insurance coverage requirements for
 6 community-based care lead agencies; removing liability
 7 insurance coverage requirements for subcontractors of
 8 community-based care lead agencies; removing a
 9 requirement to annually increase certain conditional
 10 limitations on damages by a specified percentage;
 11 providing applicability; providing an effective date.

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

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

17 409.993 Lead agencies and subcontractor liability.—

18 (1) FINDINGS.—

19 ~~(a)~~ The Legislature finds that the state has traditionally
 20 provided foster care services to children who are the
 21 responsibility of the state. As such, foster children have not
 22 had the right to recover for injuries beyond the limitations
 23 specified in s. 768.28. The Legislature has determined that
 24 foster care and related services should be outsourced pursuant
 25 to this section and that the provision of such services is of

26 paramount importance to the state. The purpose of such
27 outsourcing is to increase the level of safety, security, and
28 stability of children who are or become the responsibility of
29 the state. ~~One of the components necessary to secure a safe and~~
30 ~~stable environment for such children is the requirement that~~
31 ~~private providers maintain liability insurance. As such,~~
32 ~~insurance needs to be available and remain available to~~
33 ~~nongovernmental foster care and related services providers~~
34 ~~without the resources of such providers being significantly~~
35 ~~reduced by the cost of maintaining such insurance.~~

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

41 (2) LEAD AGENCY LIABILITY.—

42 ~~(a) Other than an entity to which s. 768.28 applies, an~~
43 ~~eligible community-based care lead agency, or its employees or~~
44 ~~officers, except as otherwise provided in paragraph (b), shall,~~
45 ~~as a part of its contract, obtain a minimum of \$1 million per~~
46 ~~occurrence with a policy period aggregate limit of \$3 million in~~
47 ~~general liability insurance coverage. The lead agency must also~~
48 ~~require that staff who transport client children and families in~~
49 ~~their personal automobiles in order to carry out their job~~
50 ~~responsibilities obtain minimum bodily injury liability~~

51 ~~insurance in the amount of \$100,000 per person per any one~~
52 ~~automobile accident, and subject to such limits for each person,~~
53 ~~\$300,000 for all damages resulting from any one automobile~~
54 ~~accident, on their personal automobiles. In lieu of personal~~
55 ~~motor vehicle insurance, the lead agency's casualty, liability,~~
56 ~~or motor vehicle insurance carrier may provide nonowned~~
57 ~~automobile liability coverage. This insurance provides liability~~
58 ~~insurance for an automobile that the lead agency uses in~~
59 ~~connection with the lead agency's business but does not own,~~
60 ~~lease, rent, or borrow. This coverage includes an automobile~~
61 ~~owned by an employee of the lead agency or a member of the~~
62 ~~employee's household but only while the automobile is used in~~
63 ~~connection with the lead agency's business. The nonowned~~
64 ~~automobile coverage for the lead agency applies as excess~~
65 ~~coverage over any other collectible insurance. The personal~~
66 ~~automobile policy for the employee of the lead agency shall be~~
67 ~~primary insurance, and the nonowned automobile coverage of the~~
68 ~~lead agency acts as excess insurance to the primary insurance.~~
69 ~~The lead agency shall provide a minimum limit of \$1 million in~~
70 ~~nonowned automobile coverage. In a tort action brought against~~
71 ~~an eligible community-based care such a lead agency, other than~~
72 ~~an entity to which s. 768.28 applies, or brought against an~~
73 ~~employee of such lead agency, net economic damages shall be~~
74 ~~limited to \$2 million per liability claim and \$200,000 per~~
75 ~~automobile claim, including, but not limited to, past and future~~

76 | medical expenses, wage loss, and loss of earning capacity,
77 | offset by any collateral source payment paid or payable. In any
78 | tort action brought against a lead agency, noneconomic damages
79 | shall be limited to \$400,000 per claim. A claim ~~claims~~ bill may
80 | be brought on behalf of a claimant pursuant to s. 768.28 for any
81 | amount exceeding the limits specified in this paragraph. Any
82 | offset of collateral source payments made as of the date of the
83 | settlement or judgment shall be in accordance with s. 768.76.
84 | The lead agency is not liable in tort for the acts or omissions
85 | of its subcontractors or the officers, agents, or employees of
86 | its subcontractors.

87 | (b) The liability of a lead agency described in this
88 | section shall be exclusive and in place of all other liability
89 | of such lead agency. The same immunities from liability enjoyed
90 | by such lead agencies shall extend to each employee of the lead
91 | agency if he or she is acting in furtherance of the lead
92 | agency's business, including the transportation of clients
93 | served, ~~as described in this subsection,~~ in privately owned
94 | vehicles. Such immunities are not applicable to a lead agency or
95 | an employee who acts in a culpably negligent manner or with
96 | willful and wanton disregard or unprovoked physical aggression
97 | if such acts result in injury or death or such acts proximately
98 | cause such injury or death. Such immunities are not applicable
99 | to employees of the same lead agency when each is operating in
100 | the furtherance of the agency's business, but they are assigned

101 primarily to unrelated work within private or public employment.

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

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

112 (3) SUBCONTRACTOR LIABILITY.—

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

126 ~~automobile accident, on their personal automobiles. In lieu of~~
127 ~~personal motor vehicle insurance, the subcontractor's casualty,~~
128 ~~liability, or motor vehicle insurance carrier may provide~~
129 ~~nonowned automobile liability coverage. This insurance provides~~
130 ~~liability insurance for automobiles that the subcontractor uses~~
131 ~~in connection with the subcontractor's business but does not~~
132 ~~own, lease, rent, or borrow. This coverage includes automobiles~~
133 ~~owned by the employees of the subcontractor or a member of the~~
134 ~~employee's household but only while the automobiles are used in~~
135 ~~connection with the subcontractor's business. The nonowned~~
136 ~~automobile coverage for the subcontractor applies as excess~~
137 ~~coverage over any other collectible insurance. The personal~~
138 ~~automobile policy for the employee of the subcontractor shall be~~
139 ~~primary insurance, and the nonowned automobile coverage of the~~
140 ~~subcontractor acts as excess insurance to the primary insurance.~~
141 ~~The subcontractor shall provide a minimum limit of \$1 million in~~
142 ~~nonowned automobile coverage. In a tort action brought against a~~
143 ~~such subcontractor of an eligible community-based care lead~~
144 ~~agency that is a direct provider of foster care and related~~
145 ~~services to children and families, or brought against an~~
146 ~~employee of such subcontractor, net economic damages shall be~~
147 ~~limited to \$2 million per liability claim and \$200,000 per~~
148 ~~automobile claim, including, but not limited to, past and future~~
149 ~~medical expenses, wage loss, and loss of earning capacity,~~
150 ~~offset by any collateral source payment paid or payable. In a~~

151 tort action brought against such subcontractor, noneconomic
152 damages shall be limited to \$400,000 per claim. A claim ~~claims~~
153 bill may be brought on behalf of a claimant pursuant to s.
154 768.28 for any amount exceeding the limits specified in this
155 paragraph. Any offset of collateral source payments made as of
156 the date of the settlement or judgment shall be in accordance
157 with s. 768.76.

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

164 (c) The liability of a subcontractor of a lead agency that
165 is a direct provider of foster care and related services as
166 described in this section is exclusive and in place of all other
167 liability of such provider. The same immunities from liability
168 enjoyed by such subcontractor provider extend to each employee
169 of the subcontractor when such employee is acting in furtherance
170 of the subcontractor's business, including the transportation of
171 clients served, ~~as described in this subsection,~~ in privately
172 owned vehicles. Such immunities are not applicable to a
173 subcontractor or an employee who acts in a culpably negligent
174 manner or with willful and wanton disregard or unprovoked
175 physical aggression if such acts result in injury or death or if

176 such acts proximately cause such injury or death. Such
177 immunities are not applicable to employees of the same
178 subcontractor who are operating in the furtherance of the
179 subcontractor's business but are assigned primarily to unrelated
180 works within private or public employment. The same immunity
181 provisions enjoyed by a subcontractor also apply to any sole
182 proprietor, partner, corporate officer or director, supervisor,
183 or other person who, in the course and scope of his or her
184 duties, acts in a managerial or policymaking capacity and the
185 conduct that caused the alleged injury arose within the course
186 and scope of those managerial or policymaking duties.

187 ~~(4) LIMITATIONS ON DAMAGES. The Legislature is cognizant~~
188 ~~of the increasing costs of goods and services each year and~~
189 ~~recognizes that fixing a set amount of compensation has the~~
190 ~~effect of a reduction in compensation each year. Accordingly,~~
191 ~~the conditional limitations on damages in this section shall be~~
192 ~~increased at the rate of 5 percent each year, prorated from July~~
193 ~~1, 2014, to the date at which damages subject to such~~
194 ~~limitations are awarded by final judgment or settlement.~~

195 **Section 2.** When determining liability limits for a claim
196 under this act, the limitations of liability in effect on the
197 date the claim accrues shall apply to the claim.

198 **Section 3.** This act shall take effect July 1, 2026.