



276786

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2014	.	
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The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment

Delete lines 1048 - 1147

and insert:

as a part of its contract, obtain a minimum of \$2,078,928 million per claim/\$3 million per incident in general liability insurance coverage. The eligible community-based care 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



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11 injury liability insurance in the amount of \$207,893 per claim,
12 \$300,000 per incident, on their personal automobiles. In lieu of
13 personal motor vehicle insurance, the lead agency's casualty,
14 liability, or motor vehicle insurance carrier may provide
15 nonowned automobile liability coverage. Such insurance provides
16 liability insurance for automobiles that the provider uses in
17 connection with the agency's business but does not own, lease,
18 rent, or borrow. Such coverage includes automobiles owned by the
19 employees of the lead agency or a member of the employee's
20 household but only while the automobiles are used in connection
21 with the agency's business. The nonowned automobile coverage for
22 the lead agency applies as excess coverage over any other
23 collectible insurance. The personal automobile policy for the
24 employee of the lead agency must be primary insurance, and the
25 nonowned automobile coverage of the agency acts as excess
26 insurance to the primary insurance. The lead agency shall
27 provide a minimum limit of \$2,078,928 million in nonowned
28 automobile coverage. In a tort action brought against such an
29 eligible community-based care lead agency or employee, net
30 economic damages shall be limited to \$2,078,928 million per
31 liability claim and \$207,893 per automobile claim, including,
32 but not limited to, past and future medical expenses, wage loss,
33 and loss of earning capacity, offset by any collateral source
34 payment paid or payable. In any tort action brought against such
35 an eligible community-based care lead agency, noneconomic
36 damages shall be limited to \$415,786 per claim. A claims bill
37 may be brought on behalf of a claimant pursuant to s. 768.28 for
38 any amount exceeding the limits specified in this paragraph. Any
39 offset of collateral source payments made as of the date of the



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40 settlement or judgment shall be in accordance with s. 768.76.
41 The community-based care lead agency is not liable in tort for
42 the acts or omissions of its subcontractors or the officers,
43 agents, or employees of its subcontractors.

44 (b) The liability of an eligible community-based care lead
45 agency described in this section shall be exclusive and in place
46 of all other liability of such lead agency. The same immunities
47 from liability enjoyed by such lead agencies shall extend as
48 well to each employee of the lead agency when such employee is
49 acting in furtherance of the agency's business, including the
50 transportation of clients served, as described in this
51 subsection, in privately owned vehicles. Such immunities are not
52 applicable to a lead agency or an employee who acts in a
53 culpably negligent manner or with willful and wanton disregard
54 or unprovoked physical aggression if such acts result in injury
55 or death or such acts proximately cause such injury or death.
56 Such immunities are not applicable to employees of the same lead
57 agency when each is operating in the furtherance of the agency's
58 business, but they are assigned primarily to unrelated work
59 within private or public employment. The same immunity
60 provisions enjoyed by a lead agency also apply to any sole
61 proprietor, partner, corporate officer or director, supervisor,
62 or other person who in the course and scope of his or her duties
63 acts in a managerial or policymaking capacity and the conduct
64 that caused the alleged injury arose within the course and scope
65 of those managerial or policymaking duties. As used in this
66 subsection and subsection (3), the term "culpable negligence"
67 means reckless indifference or grossly careless disregard of
68 human life.



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69 (3) SUBCONTRACTOR LIABILITY.—
70 (a) A subcontractor of an eligible community-based care
71 lead agency which is a direct provider of foster care and
72 related services to children and families, and its employees or
73 officers, except as otherwise provided in paragraph (b), must,
74 as a part of its contract, obtain a minimum of \$2,078,928
75 million per claim/\$3 million per incident in general liability
76 insurance coverage. The subcontractor of an eligible community-
77 based care lead agency must also require that staff who
78 transport client children and families in their personal
79 automobiles in order to carry out their job responsibilities
80 obtain minimum bodily injury liability insurance in the amount
81 of \$207,893 per claim, \$300,000 per incident, on their personal
82 automobiles. In lieu of personal motor vehicle insurance, the
83 subcontractor's casualty, liability, or motor vehicle insurance
84 carrier may provide nonowned automobile liability coverage. Such
85 insurance provides liability insurance for automobiles that the
86 subcontractor uses in connection with the subcontractor's
87 business but does not own, lease, rent, or borrow. Such coverage
88 includes automobiles owned by the employees of the subcontractor
89 or a member of the employee's household but only while the
90 automobiles are used in connection with the subcontractor's
91 business. The nonowned automobile coverage for the subcontractor
92 applies as excess coverage over any other collectible insurance.
93 The personal automobile policy for the employee of the
94 subcontractor shall be primary insurance, and the nonowned
95 automobile coverage of the subcontractor acts as excess
96 insurance to the primary insurance. The subcontractor shall
97 provide a minimum limit of \$2,078,928 in nonowned automobile



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98 coverage. In a tort action brought against such subcontractor or
99 employee, net economic damages shall be limited to \$2,078,928
100 million per liability claim and \$207,893 per automobile claim,
101 including, but not limited to, past and future medical expenses,
102 wage loss, and loss of earning capacity, offset by any
103 collateral source payment paid or payable. In a tort action
104 brought against such subcontractor, noneconomic damages shall be
105 limited to \$415,786 per claim. A claims bill
106