



The 1994 amendments abrogated for the department's independent cause of action, all affirmative defenses that would have been available to a liable third party in a traditional suit brought by or in the name of an identified recipient, but provided that such affirmative defenses would still apply to an individual Medicaid recipient's right of recovery against any third party.

Under the circumstances of the department's independent cause of action, distribution of the amount collected in the recovery to any individual recipient, is inconsistent with the purpose underlying the 1994 amendments authorizing the independent cause of action as such result would provide individuals with the benefits of the abrogation of affirmative defenses and would frustrate the purpose and the policy of the 1994 amendments of reimbursing the state for the publicly borne costs of medical treatment.

Individual recipients were in 1994 and are now free to bring their own cause of action for damages, subject, however, to the affirmative defenses which were abrogated for the department's cause of action.

The bill is to take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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