

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Leek offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 768.755, Florida Statutes, is created
 6 to read:

7 768.755 Damages recoverable for cost of medical or health
 8 care services; evidence of amount of damages; applicability.-

9 (1) In a personal injury or wrongful death action to which
 10 this part applies, damages for the cost of medical or health
 11 care services provided to a claimant shall be calculated as
 12 follows:

13 (a) If a claimant received and paid a health care provider
 14 for medical or health care services, and there is no outstanding
 15 balance for those services, the actual amount remitted to the
 16 provider is the maximum amount recoverable. Any difference

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17 between the amount originally billed by the provider and the
18 actual amount remitted to the provider is not recoverable or
19 admissible in evidence.

20 (b) If a claimant received medical or health care services
21 that were paid by a government program or private health
22 insurance for which there is no outstanding balance due to the
23 provider other than a copayment or deductible owed by the
24 claimant, the actual amount remitted to the provider by the
25 government program or private health insurance, plus any
26 copayment or deductible owed by the claimant, is the maximum
27 amount recoverable. Any difference between the amount originally
28 billed by the provider and the sum of the actual amount remitted
29 to the provider and the copayment or deductible owed by the
30 claimant is not recoverable or admissible in evidence.

31 (c) If a health care provider provided medical or health
32 care services to a claimant for which an outstanding balance is
33 due to the health care provider, and for claims asserted for
34 medical or health care services to be provided to the claimant
35 in the future, the maximum amount recoverable is the amount
36 accepted from Medicare in payment for such services by other
37 health care providers in the same geographic area. This
38 limitation also applies to any lien asserted for such services
39 in the action, with the exception of liens identified in
40 subsection (3).

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41 (2) An individual contract between a health care provider
42 and an authorized insurer offering health insurance, as defined
43 in s. 624.603, or health maintenance organization, as defined in
44 s. 641.19, is not subject to discovery or disclosure in an
45 action under this part, and such information is not admissible
46 in evidence in an action to which this part applies.

47 (3) Notwithstanding this section, if a Medicaid managed
48 care plan, Medicare, or a payor regulated under the Florida
49 Insurance Code covered or is covering the cost of a claimant's
50 medical or health care services and has given notice of its
51 intent to assert a lien or subrogate a claim for past medical
52 expenses in the action, the amount of the lien or subrogation
53 claim, in addition to the amount of a copayment or deductible
54 paid or payable by the claimant, is the maximum amount
55 recoverable and admissible into evidence with respect to the
56 covered medical or health care services.

57 (4) This section applies only to those actions for
58 personal injury or wrongful death to which this part applies
59 arising on or after July 1, 2019, and has no other application
60 or effect regarding compensation paid to providers of medical or
61 health care services.

62 Section 2. Section 768.82, Florida Statutes, is created to
63 read:

64 768.82 Limit on noneconomic damages.-

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65 (a) In any civil action, damages for noneconomic losses to
66 compensate for pain and suffering, inconvenience, mental
67 anguish, disfigurement, loss of capacity for enjoyment of life,
68 loss of consortium, loss of a decedent's companionship and
69 protection, lost parental companionship, instruction and
70 guidance, and other nonpecuniary damages may not exceed \$1
71 million.

72 (b) The jury shall not be informed of this limit.

73 (c) This section does not apply to:

74 1. Punitive damages; or

75 2. Damages for an intentional tort.

76 Section 3. This act shall take effect July 1, 2019.

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T I T L E A M E N D M E N T

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Remove lines 2-19 and insert:

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An act relating to damages; creating s. 768.755, F.S.; providing

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for the calculation of damages under specified circumstances;

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specifying that certain contracts are not subject to discovery

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or disclosure in certain actions; limiting the amount of damages

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in certain actions involving liens or subrogation claims by

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certain payors; creating s. 768.82, F.S.; limiting noneconomic

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damages in civil actions; providing that a jury may not be

88

informed of such limit; providing exceptions; providing an