

By Senator Rader

29-00590-19

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1 A bill to be entitled
2 An act relating to medical negligence; amending ss.
3 400.023, 400.0235, and 429.295, F.S.; conforming
4 provisions to changes made by the act; amending s.
5 768.21, F.S.; authorizing an adult child who was under
6 the care of a legal parental guardian at the time of a
7 parent's death to file a medical negligence claim
8 under certain circumstances; authorizing the legal
9 parental guardian of an adult child to file a claim
10 for medical negligence under certain circumstances;
11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (9) of section 400.023, Florida
16 Statutes, is amended to read:

17 400.023 Civil enforcement.—

18 (9) An action under this part for a violation of rights or
19 negligence recognized herein is not a claim for medical
20 malpractice, and the provisions of s. 768.21(8) and (9) do ~~does~~
21 not apply to a claim alleging death of the resident.

22 Section 2. Section 400.0235, Florida Statutes, is amended
23 to read:

24 400.0235 Certain provisions not applicable to actions under
25 this part.—An action under this part for a violation of rights
26 or negligence recognized under this part is not a claim for
27 medical malpractice, and the provisions of s. 768.21(8) and (9)
28 do not apply to a claim alleging death of the resident.

29 Section 3. Section 429.295, Florida Statutes, is amended to

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30 read:

31 429.295 Certain provisions not applicable to actions under
32 this part.—An action under this part for a violation of rights
33 or negligence recognized herein is not a claim for medical
34 malpractice, and the provisions of s. 768.21(8) and (9) do not
35 apply to a claim alleging death of the resident.

36 Section 4. Subsection (8) of section 768.21, Florida
37 Statutes, is amended and subsection (9) is added to that
38 section, to read:

39 768.21 Damages.—All potential beneficiaries of a recovery
40 for wrongful death, including the decedent's estate, shall be
41 identified in the complaint, and their relationships to the
42 decedent shall be alleged. Damages may be awarded as follows:

43 (8) The damages specified in subsection (3) are ~~shall~~ not
44 ~~be~~ recoverable by adult children with respect to a claim for
45 medical negligence, as defined in s. 766.106(1), unless the
46 decedent had previously been appointed a guardian, as defined in
47 s. 744.102, of the adult child. ~~and~~

48 (9) The damages specified in subsection (4) are ~~shall~~ not
49 ~~be~~ recoverable by parents of an adult child with respect to
50 claims for medical negligence, as defined in ~~by~~ s. 766.106(1),
51 unless the parent had previously been appointed a guardian, as
52 defined in s. 744.102, of the adult child.

53 Section 5. This act shall take effect July 1, 2019.