

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

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsection (9) of section 400.023, Florida
 18 Statutes, is amended to read:

19 400.023 Civil enforcement.—

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

24 Section 2. Section 400.0235, Florida Statutes, is amended
 25 to read:

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

31 Section 3. Section 429.295, Florida Statutes, is amended
 32 to read:

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

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

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

45 (8) The damages specified in subsection (3) are ~~shall~~ not
 46 ~~be~~ recoverable by adult children with respect to a claim for
 47 medical negligence as defined by s. 766.106(1), unless the
 48 decedent had previously been appointed a guardian, as defined in
 49 s. 744.102, over the adult child. A personal representative, as
 50 defined in s. 198.01(2), may file the suit on behalf of the

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51 adult child. ~~and~~

52 (9) The damages specified in subsection (4) are ~~shall~~ not
53 ~~be~~ recoverable by parents of an adult child with respect to
54 claims for medical negligence as defined by s. 766.106(1) unless
55 the parent had previously been appointed a guardian, as defined
56 in s. 744.102, over the adult child. A personal representative,
57 as defined in s. 198.01(2), may file the suit on behalf of the
58 parents of the adult child.

59 Section 5. This act shall take effect July 1, 2021.