



Rep. Anna Moeller

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10200HB5152ham001

LRB102 26044 KTG 36128 a

1 AMENDMENT TO HOUSE BILL 5152

2 AMENDMENT NO. _____. Amend House Bill 5152 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Community-Based Foster Care Organization Safety Net Act.

6 Section 5. Policy and purpose. It is the policy of this
7 State to encourage community-based organizations to provide
8 foster care services to children in need. It is the purpose of
9 this Act to provide such community-based organizations with a
10 financial safety net for liabilities incurred in excess of
11 \$2,000,000 for tort claims arising out of the foster care
12 services they provide to the children of this State.

13 Section 10. Definitions. As used in this Act:

14 "Community-based foster care organization" or
15 "organization" means a privately owned or operated

1 organization that contracts with the Department of Children
2 and Family Services for the purpose of providing foster care
3 services in the State.

4 "Department" means the Department of Children and Family
5 Services.

6 "Damages" means any sums a community-based foster care
7 organization becomes legally obligated to pay as a result of a
8 tort claim arising out of foster care services, including any
9 settlements, judgments, judgments for punitive damages, and
10 attorney's fees. "Damages" does not include fines assessed by
11 the Department or the State. "Damages" does not include any
12 liabilities incurred by the community-based foster care
13 organization for claims against employees of the
14 community-based foster care organization.

15 "Foster care services" means the provision of a full range
16 of casework, treatment, and community services for a planned
17 period of time to a child who is in need of placement or has
18 been placed through an agreement between the Department and
19 the community-based foster care organization.

20 Section 15. Indemnification of community-based foster care
21 organizations.

22 (a) If any civil proceeding is commenced against a
23 community-based foster care organization alleging death or
24 bodily injury or other injury to the claimant arising out of
25 any act or omission within the scope of the organization's

1 provision of foster care services, the State shall indemnify
2 the community-based foster care organization for any damages
3 incurred in excess of \$2,000,000.

4 (b) Damages, court costs, litigation expenses, and other
5 costs of indemnification, including attorney's fees obligated
6 under this Section, whether by settlement or by judgment,
7 shall be presented by the claimant in the Court of Claims
8 subject to the procedures set forth in Section 8 of the Court
9 of Claims Act.

10 (c) Upon entry of a final judgment in excess of \$2,000,000
11 against the community-based foster care organization, or upon
12 the settlement of a claim in excess of that amount, the
13 claimant or his or her representative shall file a copy of such
14 judgment or settlement within 60 days after the effective date
15 of such settlement or judgment with the Court of Claims.

16 (d) Nothing contained or implied in this Section shall
17 operate, or be construed or applied, to deprive the
18 community-based foster care organization, or any of its
19 employees, of any defense available to it.

20 (f) This Act applies to all judgments or settlement
21 proceedings finalized on or after the effective date of this
22 Act, and to any proceeding pending on the effective date of
23 this Act.

24 (g) The indemnification provided under this Act shall
25 apply to any employee acting within the scope of his or her
26 employment with the community-based foster care organization.

1 However, this indemnification shall not apply to any
2 community-based foster care organization or any employee of a
3 community-based foster care organization that is involved in
4 any: (i) criminal proceeding in which the organization or
5 employee is a defendant; (ii) criminal investigation in which
6 the organization or employee is the target; or (iii)
7 proceeding that does not arise out of the provision of foster
8 care services. Nothing in this Act shall be construed to
9 prohibit a community-based foster care organization from
10 providing representation to an employee who is a witness in a
11 criminal matter arising out of the employee's employment with
12 the community-based foster care organization.

13 Section 20. Severability. If any provision of this Act or
14 its application to any person or circumstance is held invalid,
15 the invalidity of that provision or application does not
16 affect other provisions or applications of this Act that can
17 be given effect without the invalid provision or application.

18 Section 25. The Court of Claims Act is amended by changing
19 Section 8 as follows:

20 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

21 Sec. 8. Court of Claims jurisdiction; deliberation
22 periods. The court shall have exclusive jurisdiction to hear
23 and determine the following matters:

1 (a) All claims against the State founded upon any law
2 of the State of Illinois or upon any regulation adopted
3 thereunder by an executive or administrative officer or
4 agency; provided, however, the court shall not have
5 jurisdiction (i) to hear or determine claims arising under
6 the Workers' Compensation Act or the Workers' Occupational
7 Diseases Act, or claims for expenses in civil litigation,
8 or (ii) to review administrative decisions for which a
9 statute provides that review shall be in the circuit or
10 appellate court.

11 (b) All claims against the State founded upon any
12 contract entered into with the State of Illinois.

13 (c) All claims against the State for time unjustly
14 served in prisons of this State when the person imprisoned
15 received a pardon from the Governor stating that such
16 pardon is issued on the ground of innocence of the crime
17 for which he or she was imprisoned or he or she received a
18 certificate of innocence from the Circuit Court as
19 provided in Section 2-702 of the Code of Civil Procedure;
20 provided, the amount of the award is at the discretion of
21 the court; and provided, the court shall make no award in
22 excess of the following amounts: for imprisonment of 5
23 years or less, not more than \$85,350; for imprisonment of
24 14 years or less but over 5 years, not more than \$170,000;
25 for imprisonment of over 14 years, not more than \$199,150;
26 and provided further, the court shall fix attorney's fees

1 not to exceed 25% of the award granted. On or after the
2 effective date of this amendatory Act of the 95th General
3 Assembly, the court shall annually adjust the maximum
4 awards authorized by this subsection (c) to reflect the
5 increase, if any, in the Consumer Price Index For All
6 Urban Consumers for the previous calendar year, as
7 determined by the United States Department of Labor,
8 except that no annual increment may exceed 5%. For the
9 annual adjustments, if the Consumer Price Index decreases
10 during a calendar year, there shall be no adjustment for
11 that calendar year. The transmission by the Prisoner
12 Review Board or the clerk of the circuit court of the
13 information described in Section 11(b) to the clerk of the
14 Court of Claims is conclusive evidence of the validity of
15 the claim. The changes made by this amendatory Act of the
16 95th General Assembly apply to all claims pending on or
17 filed on or after the effective date.

18 (d) All claims against the State for damages in cases
19 sounding in tort, if a like cause of action would lie
20 against a private person or corporation in a civil suit,
21 and all like claims sounding in tort against the Medical
22 Center Commission, the Board of Trustees of the University
23 of Illinois, the Board of Trustees of Southern Illinois
24 University, the Board of Trustees of Chicago State
25 University, the Board of Trustees of Eastern Illinois
26 University, the Board of Trustees of Governors State

1 University, the Board of Trustees of Illinois State
2 University, the Board of Trustees of Northeastern Illinois
3 University, the Board of Trustees of Northern Illinois
4 University, the Board of Trustees of Western Illinois
5 University, or the Board of Trustees of the Illinois
6 Mathematics and Science Academy; provided, that an award
7 for damages in a case sounding in tort, other than certain
8 cases involving the operation of a State vehicle described
9 in this paragraph, shall not exceed the sum of \$2,000,000
10 to or for the benefit of any claimant. The \$2,000,000
11 limit prescribed by this Section does not apply to an
12 award of damages in any case sounding in tort arising out
13 of the operation by a State employee of a vehicle owned,
14 leased or controlled by the State. The defense that the
15 State or the Medical Center Commission or the Board of
16 Trustees of the University of Illinois, the Board of
17 Trustees of Southern Illinois University, the Board of
18 Trustees of Chicago State University, the Board of
19 Trustees of Eastern Illinois University, the Board of
20 Trustees of Governors State University, the Board of
21 Trustees of Illinois State University, the Board of
22 Trustees of Northeastern Illinois University, the Board of
23 Trustees of Northern Illinois University, the Board of
24 Trustees of Western Illinois University, or the Board of
25 Trustees of the Illinois Mathematics and Science Academy
26 is not liable for the negligence of its officers, agents,

1 and employees in the course of their employment is not
2 applicable to the hearing and determination of such
3 claims. The changes to this Section made by this
4 amendatory Act of the 100th General Assembly apply only to
5 claims filed on or after July 1, 2015.

6 The court shall annually adjust the maximum awards
7 authorized by this subsection to reflect the increase, if
8 any, in the Consumer Price Index For All Urban Consumers
9 for the previous calendar year, as determined by the
10 United States Department of Labor. The Comptroller shall
11 make the new amount resulting from each annual adjustment
12 available to the public via the Comptroller's official
13 website by January 31 of every year.

14 (e) All claims for recoupment made by the State of
15 Illinois against any claimant.

16 (f) All claims pursuant to the Line of Duty
17 Compensation Act. A claim under that Act must be heard and
18 determined within one year after the application for that
19 claim is filed with the Court as provided in that Act.

20 (g) All claims filed pursuant to the Crime Victims
21 Compensation Act.

22 (h) All claims pursuant to the Illinois National
23 Guardsman's Compensation Act. A claim under that Act must
24 be heard and determined within one year after the
25 application for that claim is filed with the Court as
26 provided in that Act.

1 (i) All claims authorized by subsection (a) of Section
2 10-55 of the Illinois Administrative Procedure Act for the
3 expenses incurred by a party in a contested case on the
4 administrative level.

5 (j) All claims for indemnification under Section 10 of
6 the Community-Based Foster Care Provider Safety Net Act.

7 (Source: P.A. 100-1124, eff. 11-27-18.)

8 Section 99. Effective date. This Act takes effect April 1,
9 2022."