



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2146

Introduced 2/7/2023, by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

New Act
705 ILCS 505/8

from Ch. 37, par. 439.8

Creates the Community-Based Foster Care Organization Safety Net Act. Provides that it is the purpose of the Act to provide community-based foster care organizations with a financial safety net for liabilities incurred in excess of \$2,000,000 for tort claims arising out of the foster care services they provide to the children of this State. Provides that if any civil proceeding is commenced against a community-based foster care organization alleging death or bodily injury or other injury to the claimant arising out of any act or omission within the scope of the organization's provision of foster care services, the State shall indemnify the community-based foster care organization for any damages incurred in excess of \$2,000,000. Provides that damages, court costs, litigation expenses, and other costs of indemnification, including attorney's fees obligated under this Section, whether by settlement or by judgment, shall be presented by the claimant in the Court of Claims subject to the procedures set forth in the Court of Claims Act. Provides that upon entry of a final judgment in excess of \$2,000,000 against the community-based foster care organization, or upon the settlement of a claim in excess of that amount, the claimant or his or her representative shall file a copy of such judgment or settlement within 60 days after the effective date of such settlement or judgment with the Court of Claims. Provides that the Act applies to all judgments or settlement proceedings finalized on or after the effective date of the Act, and to any proceeding pending on the effective date of the Act. Provides that indemnification provided under the Act shall apply to any employee acting within the scope of his or her employment with the community-based foster care organization. Sets forth when indemnification does not apply. Provides that nothing in the Act shall be construed to prohibit a community-based foster care organization from providing representation to an employee who is a witness in a criminal matter arising out of the employee's employment with the community-based foster care organization. Amends the Court of Claims Act to make conforming changes. Effective April 1, 2023.

LRB103 26917 KTG 53281 b

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
16 organization that contracts with the Department of Children
17 and Family Services for the purpose of providing foster care
18 services in the State.

19 "Department" means the Department of Children and Family
20 Services.

21 "Damages" means any sums a community-based foster care
22 organization becomes legally obligated to pay as a result of a

1 tort claim arising out of foster care services, including any
2 settlements, judgments, judgments for punitive damages, and
3 attorney's fees. "Damages" does not include fines assessed by
4 the Department or the State. "Damages" does not include any
5 liabilities incurred by the community-based foster care
6 organization for claims against employees of the
7 community-based foster care organization.

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

13 Section 15. Indemnification of community-based foster care
14 organizations.

15 (a) If any civil proceeding is commenced against a
16 community-based foster care organization alleging death or
17 bodily injury or other injury to the claimant arising out of
18 any act or omission within the scope of the organization's
19 provision of foster care services, the State shall indemnify
20 the community-based foster care organization for any damages
21 incurred in excess of \$2,000,000.

22 (b) Damages, court costs, litigation expenses, and other
23 costs of indemnification, including attorney's fees obligated
24 under this Section, whether by settlement or by judgment,
25 shall be presented by the claimant in the Court of Claims

1 subject to the procedures set forth in Section 8 of the Court
2 of Claims Act.

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

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

13 (f) This Act applies to all judgments or settlement
14 proceedings finalized on or after the effective date of this
15 Act, and to any proceeding pending on the effective date of
16 this Act.

17 (g) The indemnification provided under this Act shall
18 apply to any employee acting within the scope of his or her
19 employment with the community-based foster care organization.
20 However, this indemnification shall not apply to any
21 community-based foster care organization or any employee of a
22 community-based foster care organization that is involved in
23 any: (i) criminal proceeding in which the organization or
24 employee is a defendant; (ii) criminal investigation in which
25 the organization or employee is the target; or (iii)
26 proceeding that does not arise out of the provision of foster

1 care services. Nothing in this Act shall be construed to
2 prohibit a community-based foster care organization from
3 providing representation to an employee who is a witness in a
4 criminal matter arising out of the employee's employment with
5 the community-based foster care organization.

6 Section 20. Severability. If any provision of this Act or
7 its application to any person or circumstance is held invalid,
8 the invalidity of that provision or application does not
9 affect other provisions or applications of this Act that can
10 be given effect without the invalid provision or application.

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

13 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

14 Sec. 8. Court of Claims jurisdiction; deliberation
15 periods. The court shall have exclusive jurisdiction to hear
16 and determine the following matters:

17 (a) All claims against the State founded upon any law
18 of the State of Illinois or upon any regulation adopted
19 thereunder by an executive or administrative officer or
20 agency; provided, however, the court shall not have
21 jurisdiction (i) to hear or determine claims arising under
22 the Workers' Compensation Act or the Workers' Occupational
23 Diseases Act, or claims for expenses in civil litigation,

1 or (ii) to review administrative decisions for which a
2 statute provides that review shall be in the circuit or
3 appellate court.

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

6 (c) All claims against the State for time unjustly
7 served in prisons of this State when the person imprisoned
8 received a pardon from the Governor stating that such
9 pardon is issued on the ground of innocence of the crime
10 for which he or she was imprisoned or he or she received a
11 certificate of innocence from the Circuit Court as
12 provided in Section 2-702 of the Code of Civil Procedure;
13 provided, the amount of the award is at the discretion of
14 the court; and provided, the court shall make no award in
15 excess of the following amounts: for imprisonment of 5
16 years or less, not more than \$85,350; for imprisonment of
17 14 years or less but over 5 years, not more than \$170,000;
18 for imprisonment of over 14 years, not more than \$199,150;
19 and provided further, the court shall fix attorney's fees
20 not to exceed 25% of the award granted. On or after the
21 effective date of this amendatory Act of the 95th General
22 Assembly, the court shall annually adjust the maximum
23 awards authorized by this subsection (c) to reflect the
24 increase, if any, in the Consumer Price Index For All
25 Urban Consumers for the previous calendar year, as
26 determined by the United States Department of Labor,

1 except that no annual increment may exceed 5%. For the
2 annual adjustments, if the Consumer Price Index decreases
3 during a calendar year, there shall be no adjustment for
4 that calendar year. The transmission by the Prisoner
5 Review Board or the clerk of the circuit court of the
6 information described in Section 11(b) to the clerk of the
7 Court of Claims is conclusive evidence of the validity of
8 the claim. The changes made by this amendatory Act of the
9 95th General Assembly apply to all claims pending on or
10 filed on or after the effective date.

11 (d) All claims against the State for damages in cases
12 sounding in tort, if a like cause of action would lie
13 against a private person or corporation in a civil suit,
14 and all like claims sounding in tort against the Medical
15 Center Commission, the Board of Trustees of the University
16 of Illinois, the Board of Trustees of Southern Illinois
17 University, the Board of Trustees of Chicago State
18 University, the Board of Trustees of Eastern Illinois
19 University, the Board of Trustees of Governors State
20 University, the Board of Trustees of Illinois State
21 University, the Board of Trustees of Northeastern Illinois
22 University, the Board of Trustees of Northern Illinois
23 University, the Board of Trustees of Western Illinois
24 University, or the Board of Trustees of the Illinois
25 Mathematics and Science Academy; provided, that an award
26 for damages in a case sounding in tort, other than certain

1 cases involving the operation of a State vehicle described
2 in this paragraph, shall not exceed the sum of \$2,000,000
3 to or for the benefit of any claimant. The \$2,000,000
4 limit prescribed by this Section does not apply to an
5 award of damages in any case sounding in tort arising out
6 of the operation by a State employee of a vehicle owned,
7 leased or controlled by the State. The defense that the
8 State or the Medical Center Commission or the Board of
9 Trustees of the University of Illinois, the Board of
10 Trustees of Southern Illinois University, the Board of
11 Trustees of Chicago State University, the Board of
12 Trustees of Eastern Illinois University, the Board of
13 Trustees of Governors State University, the Board of
14 Trustees of Illinois State University, the Board of
15 Trustees of Northeastern Illinois University, the Board of
16 Trustees of Northern Illinois University, the Board of
17 Trustees of Western Illinois University, or the Board of
18 Trustees of the Illinois Mathematics and Science Academy
19 is not liable for the negligence of its officers, agents,
20 and employees in the course of their employment is not
21 applicable to the hearing and determination of such
22 claims. The changes to this Section made by this
23 amendatory Act of the 100th General Assembly apply only to
24 claims filed on or after July 1, 2015.

25 The court shall annually adjust the maximum awards
26 authorized by this subsection to reflect the increase, if

1 any, in the Consumer Price Index For All Urban Consumers
2 for the previous calendar year, as determined by the
3 United States Department of Labor. The Comptroller shall
4 make the new amount resulting from each annual adjustment
5 available to the public via the Comptroller's official
6 website by January 31 of every year.

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

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

13 (g) All claims filed pursuant to the Crime Victims
14 Compensation Act.

15 (h) All claims pursuant to the Illinois National
16 Guardsman's Compensation Act. A claim under that Act must
17 be heard and determined within one year after the
18 application for that claim is filed with the Court as
19 provided in that Act.

20 (i) All claims authorized by subsection (a) of Section
21 10-55 of the Illinois Administrative Procedure Act for the
22 expenses incurred by a party in a contested case on the
23 administrative level.

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

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

1 Section 99. Effective date. This Act takes effect April 1,
2 2023.