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Despite Barahona case concerns, liability limits for foster care agencies advances in House



WFOR-CBS4

[ENLARGE PHOTO](#)

Handout photo shows Nubia Barahona, a 10-year-old whose body was found wrapped in plastic in a pest control truck. The girl's adoptive father, Jorge Barahona, is being held as a suspect in the girl's death.

By **JOHN KENNEDY**
Palm Beach Post Staff Writer

Updated: 8:35 p.m. Wednesday, March 16, 2011
Posted: 2:43 p.m. Wednesday, March 16, 2011

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TALLAHASSEE — A measure capping legal damages for agencies providing foster care services cleared a House committee on an 11-4 vote Wednesday, despite emotional testimony from opponents who said lawmakers are putting dollars ahead of the safety of children in a troubled system.

But House sponsor Scott Plakon, R-Longwood, said his proposal (HB 1019) is aimed at helping agencies better serve children, by lowering insurance costs he says spike because of "frivolous lawsuits."

"It's clear, there is a problem with the rates going up," Plakon told the House Human Services Access subcommittee. "Even if they don't do anything wrong, it's only a matter of time before they'll get sued."

But critics derided the legislation, coming only a month after the death of 10-year-old Nubia Barahona and near death of her twin brother, Victor. The twin's adoptive parents are charged in the beating death of Nubia, whose body police found in a garbage bag in her father's truck on Interstate 95 in West Palm Beach.

Her brother, found in the front seat, had been scalded with toxic chemicals. They had been in foster care with the Barahonas before being adopted by the couple.



In this photo taken Feb 16, 2011, Carmen Barahona peers from behind a sheet of paper she used to shield herself from media cameras during court

proceedings in Miami. Her husband Jorge Barahona and two children, Victor and Nubia Barahona, were found covered in chemicals inside a truck alongside Interstate 95 in Palm Beach County in Florida. Nubia was found dead wrapped in plastic. Carmen Barahona was arrested in the death of Nubia, the Miami-Dade Police Department announced nearly three weeks after the girl was found. (AP Photo/The Miami Herald, C.W. Griffin) MAGS OUT



Jorge Barahona

CHILD ABUSE INVESTIGATION OF THE BARAHONA TWINS »

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Photos: Crime scene, suspect

Interactive timeline of the abuse investigation

Audio: Call to abuse hotline about Barahonas

Audio: 2nd call to abuse hotline

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Audio: DCF meeting on March 3, 2011

Independent review panel: 'The Nubia Report' (pdf)

Statement of DCF Secretary David Wilkins 3/14/2011

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The state's Department of Children & Families acknowledges the tragedy stemmed from systemic failures within the agency and a private organization, Our Kids of Miami-Dade/Monroe Inc., which handled their adoption and could be shielded from more costly liability under the legislation.

"This legislation is not in the public's interest," said Thomas Bates, a child advocate from Monticello who was raised in foster care. "It decreases the rights of foster children and it allows agencies to escape responsibility."

Committee Chair Gayle Harrell, R-Stuart, said Plakon's prospects for passing the bill became "even more challenging," with the still unfolding case, which has led to firings and suspensions of key personnel within DCF.

"But I think you are on the right track," Harrell told Plakon.

Plakon's proposal would cap financial awards for pain and suffering at between \$200,000 and \$1 million, and would limit economic damages at \$2 million.

Sen. Jack Latvala, R-St. Petersburg, is sponsoring a similar bill (SB 1500). The bills also would lower the amount of liability insurance the agencies must carry from \$1 million to \$500,000.

The measures also would hold DCF harmless from lawsuits filed against the agencies, which in some cases have topped tens of millions of dollars.

Michael Dolce, a board member for the advocacy organization, Florida's Children First, of Coral Springs, said Florida Republican lawmakers were looking to diminish the role of trial lawyers, usually Democratic allies, by making it less lucrative to sue agencies on behalf of abused children.

"They're trying to impose tort reform on the backs of foster children," Dolce said.

But Plakon said he's heard from dozens of agencies facing annual insurance premium increases -- some surpassing 100 percent. Lawsuits are driving the increases, he said.

"I've spent a lot of time with these agencies," Plakon said. "I find them with a pure heart to help children but in the best cases, they take a bad situation and make it better. But every now and again, one of those bad situations go way wrong, through no fault of their own."

The Barahona case hung heavy over Wednesday's debate.

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Plakon's bill faces three more House committee stops before heading for a full vote. The Senate, where changes to the civil justice system usually face stiffer scrutiny, has hinted of deep resistance to the liability limits.

Sen. Ronda Storms, R-Valrico, chair of the Senate's Children, Families and Elder Affairs Committee, blasted agency officials earlier this month for supporting the legislation.

"You have some gall to do that in the face of these sort of atrocities," Storms said.

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What people will do will be to name every agency that was involved including the guardian ad litem if there is a problem. They will want their money from somewhere. Notice DCF is trying to get themselves out of any lawsuit. Even if they contract to substandard private agencies they are in the clear. This is why there are dead children and why there will be more.

cj
3:09 PM, 3/16/2011

[REPORT ABUSE](#)

I think you are right cj....

DC
3:18 PM, 3/16/2011

[REPORT ABUSE](#)

OF COURSE IT'S OK TO HELP STATE AGENCIES, CRONIES, AND SUBSTANDARD CONTRACTORS WITH RISING INSURANCE PREMIUMS, MEANWHILE THE REPUBLICAN PARTY WANTS THE AVERAGE HOMEOWNER TO TAKE A 100% INCREASES FOR HURRICANE COVERAGE WITH A SMILE AS WE BEND OVER FOR THE INSURANCE COMPANIES!

DISGUSTING!

SickNTired
3:38 PM, 3/16/2011

[REPORT ABUSE](#)

So what's next? Laws to lower the cost of house insurance? What about car insurance? And let's not forget health insurance. I hope the aunt and uncle of these 2 children sue DCF for millions. Sometimes that is the only way things change, by making people pay. Also, why do we need laws to govern lawsuits, what happened to a jury by our peers? They know that these kind of lawsuits garner sympathy. How come the 'leader' of DCF never spoke up about their problems until now? What has he been doing?

Scott
3:43 PM, 3/16/2011

[REPORT ABUSE](#)

Why not do your job without mistakes so that there are no lawsuits...no claims, lower premiums...I'm just saying!

IGetIt
4:02 PM, 3/16/2011

[REPORT ABUSE](#)

Is it just me, or do George and Carmen Barahona look like siblings?

Observation

4:13 PM, 3/16/2011

[REPORT ABUSE](#)

hey look like this lady had lipo in the face you believe she took the children money and really tried to look like a monkey that is probably why she were locking those poor children in the bathroom , I want to ask a ? WHY DID THEY GIVE THESE CHILDREN TO THOSE ANIMAL WHAT A PRETTY LITTLE GIRL AND A HANDSOME LITTLE BOY I PRAY THAT HE IS OK

WHY

4:38 PM, 3/16/2011

[REPORT ABUSE](#)

DCF shame on you they need to clear the whole pannel and start over with workers that stays on top of the job instead of these people who care less it just a job it is more than just these two kids that life was put in danger or even taken away thanks to the system that is at hand I have a friend been trying to adopt children and give them a good home it never happen instead they give children to monsters, now want more money what a joke

ophan annie

4:51 PM, 3/16/2011

[REPORT ABUSE](#)

How sad that a Foster Child won't have the same 'rights' to sue for mistreatment that a child living outside the Foster Care system will have...

WOW!... This Bill just widens the discrimination between the "Haves and Have Nots' in society.

I know several adults who grew up in Foster Care and they are absolutely appalled that such a Bill has been passed at all...and it is especially evil that it has passed almost immediately after the brutal murder of a Foster Care child.

Danu

4:55 PM, 3/16/2011

[REPORT ABUSE](#)

I could care less about the lawsuits- it won't bring the kids back. If you think about it- this happened when there was no cap on the amount; I shudder to think how lazy these workers will be now that there is no real civil repercussion and a cap on the amount to be awarded.

But i cannot wait for these two animals to be given the death penalty. That is when justice will be served. One is no better than the other- they both deserve the death penalty.

half pint

5:28 PM, 3/16/2011

[REPORT ABUSE](#)

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Tim Burke, Executive Editor, The Palm Beach Post

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