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On dark day in Barahona case, care providers would gain legal shields

by John Kennedy | March 28th, 2011

A measure capping legal damages for agencies providing foster care services cleared a House committee on an 11-3 vote Monday, just hours after prosecutors said they would seek the death penalty for Jorge and Carmen Barahona, the Miami-Dade couple accused of torturing and killing their foster daughter last month.

Rep. Scott Plakon, R-Longwood, acknowledged the Barahona case hung heavy over his legislation, adding "evil people do evil things."

But he said the death of 10-year-old Nubia and near death of her twin brother, Victor, would be best avenged by assuring that agencies can provide better care.

"We have to make sure people like Victor and Nubia are taken care of," Plakon told the House Health Care budget subcommittee.

Supporters of the bill (HB 1019) said it's needed to help stem rising liability insurance costs, which representatives of several children's care organizations said are threatening to put them out of business.

But Gary Farmer, a Fort Lauderdale trial lawyer, said, "If there's an increase in lawsuits, it's because more kids are being injured."

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.

The state's Department of Children & Families acknowledges the Barahona case 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.

Sen. Ronda Storms, R-Valrico, chairman of the Senate's Children, Families and Elder Affairs Committee, is an influential opponent of the legislation.

But Sen. Joe Negron, R-Stuart, has tucked the lawsuit protections into the chamber's omnibus Medicaid bill (SB 1972), which is scheduled for its first hearing Wednesday.

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9 Responses to "On dark day in Barahona case, care providers would gain legal shields"

1. *nemo* Says:
[March 28th, 2011 at 5:24 pm](#)

To Gary Farmer;

99% of all lawyers give the other 1% a bad name.

2. *Gene* Says:
[March 28th, 2011 at 5:39 pm](#)

The sad reality of our society is that the fear of huge legal judgements is the only motivation that agencies and businesses have to pay more attention to what they're doing. Capping judgements will inevitably result in more carelessness on the part of those shielded.

One way to prevent this might be to make the people who run agencies and businesses criminally culpable when negligence results in things like the Barahona case. Prosecutors putting a few government and private adoption people in prison might be a workable alternative to letting the liability lawyers loose on their organizations.

3. *ray* Says:
[March 28th, 2011 at 5:44 pm](#)

Baronhas will sue the DCF through this attorney. Andrea where is her union? They need to "help her"

So sad that there are no real consequences to this behavior.If an RN abuses or allow abuse to happen her pateint she goes to jail.

We need to reform the trial lawyers so that they fight for justice and not look for deep pockets.

4. *raymond nielsen* Says:
[March 28th, 2011 at 5:52 pm](#)

By allowing bills and laws to pass through legislation which allows the culprits NOT LIABLE for damages, such as the DCF acknowledged "systematic failures within the agency" will not stop the real problem. An INCREASE of systematic failures WILL OCCUR because DCF will not face any type of charges themselves.

5. *roger* Says:
[March 28th, 2011 at 6:14 pm](#)

nemo: sounds like you got punked by a lawyer.

6. **darlene** Says:
[March 29th, 2011 at 6:25 pm](#)



Oh that's brilliant, shield them from lawsuits..lets see how many more horrific cases come about b/c of these bumbling fidiots wanting to shield the other bumbling fidiots.

7. **The Ice Man Cometh** Says:
[March 28th, 2011 at 6:25 pm](#)



They worry more about keeping their profits than making laws that hold themselves accountable for the abuse that happens to these children.

hey , here is an idea , live off less like you expect most of the people you represent.

And for those who complain about the salaries paid and in effect make it all about money. It's not about money, it lies in the heart of a person to do the responsible thing. Money isn't going to ncessarily be the key to someone doing the job. There are plenty of examples of human beings who do great things for little money. I suppose most think they're too good for that.

8. **db804** Says:
[March 29th, 2011 at 7:49 am](#)



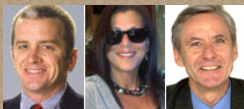
I just don't get it. They don't want to fix the problem, they don't want to protect the children, they just don't want to be responsible for the outcome of their actions or should I say in-actions. The end result will be even worse care and no accountability

9. **Dirk** Says:
[April 8th, 2011 at 6:00 am](#)



If you can't afford a 1 million dollar insurance policy you sure as heck don't need to be in this business. It only cost a couple thousand dollars a year. What a pathetic excuse!

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