

NEWS SERVICE FLORIDA



DAMAGE CAP DEBATE SHIFTS TO DISABILITY PROVIDERS

By MARGIE MENZEL
THE NEWS SERVICE OF FLORIDA

Posting or forwarding this material without permission is prohibited. Contact news@newsserviceflorida.com

THE CAPITAL, TALLAHASSEE, April 11, 2011.....A child advocacy group that is fighting liability limits for children in the state foster care system is taking aim at a similar measure seeking to provide lawsuit immunity for disability service providers.

The providers say they are facing increased legal claims and need the added protection, which would extend immunity to both non-profit and for-profit contractors that care for foster children with mental and physical disabilities.

"Our providers are spending so much on insurance that basically what that does is, it takes away from the monies that they have available for their clients," said Rep. Marti Coley, R-Marianna and the House sponsor.

The proposal is contained in stand-alone bills - Coley's HB 615 and SB 966 by Sen. Mike Bennett, R-Bradenton - which have yet to be heard in committee. The language is moving, though, in Sen. Joe Negrón's omnibus Medicaid bill (CS/CS/SB 1972).

But a spokeswoman for the advocacy group Florida's Children First said the providers are trying to avoid accountability.

"They're misleading the Legislature and creating a crisis that doesn't exist," said FCF executive director Christina Spudeas Monday. "If this legislation passes, this will push the burden onto the taxpayers."

Spudeas said 35 percent of children in foster care have disabilities, which make it less likely they'll be adopted and more likely they'll stay in foster care until they age out at 18. The providers, she added, have been able to save on their insurance premiums by pooling coverage.

"The cost of premiums is not threatening the existence of the private corporations," Spudeas said. "[For] 11 major providers, representing almost \$188 million in service revenues, the rate of premium savings would amount to .001 to .005 percent [of the providers' operating revenues]. So it is not worth taking

that small insurance savings and putting at risk those children that are already extremely at risk."

Suzanne Sewell, president and CEO of the Florida Association of Rehabilitation Facilities, said her members disagree.

"We obviously feel there's a valid issue or we would not have pursued this legislation," she said. "We think we have the right to pursue legislative remedies."

Spudeas and FCF have been combatting a similar measure by Rep. Scott Plakon, R-Longwood, that would cap damage for children who receive foster care and adoption services from Florida's 20 community based care organizations. Like Coley, Plakon has warned that increasing insurance premiums threaten services to children. The language in his bill had been included in Negron's Medicaid proposal, but was dropped last week.

The Department of Children and Families supports both measures.

Coley said the providers will still have to carry insurance, "but just at a different level. And even with these limits, that will not prohibit someone from continuing to seek relief... We are not trying to exempt anyone. This is simply a part of our tort reform."

Longtime children's advocate Andrea Moore said she disagrees with both sides. "The government does not waive liability coverage for construction projects," she said of the providers. "Why grant such a special benefit for other contractors?"

But Moore also had pointed questions for FCF, where she put in five years as Spudeas' predecessor.

"Where are you in calling for more effective contract monitoring or for alternative dispute resolution before litigation?" Moore demanded. "I think this controversy takes the eye off the ball. Too many children are being hurt and too many basic standards of care are ignored or openly violated. Wouldn't time be better spent fixing it so there would not be any lawsuits?"

The two sides have accused each other of using front groups to conceal the real players behind their debate. Those who support liability limits point to the presence of trial lawyer Howard Talenfeld as FCF's president and other members of the trial bar on the organization's board of directors. FCF, meanwhile, put out a statement charging disability service providers with misrepresenting themselves.

"These very same disability organizations behind this bad legislation solved any insurance problems they had in January 2007," ran an FCF statement Monday, "when the Florida Legislature allowed them to purchase liability and other insurance coverage at reduced costs by forming the Florida Insurance Trust, which was a self-insurance trust not regulated by the Office of Insurance

Regulation."

Asked whether her members are losing their liability coverage, Sewell said, "Liability coverage has been a concern. That's why we're pursuing this legislation."

If lawmakers perform their due diligence, she added, "We're confident they'll make the right decisions."

-END-

04/11/2011

Independent and Indispensable

<http://www.newsserviceflorida.com>

-
-
-
-

[News Service Home Page](#)