

SENATE BILL 238

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 20; Title 28; Title 29; Title 47, Chapter 18 and Title 63, Chapter 6, to enact the “Jobs Creation Lawsuit Reform Act.”

WHEREAS, reducing frivolous lawsuits will help Tennessee become the number one state in the southeast for high-quality jobs; now, therefore;

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the “Jobs Creation Lawsuit Reform Act.”

SECTION 2. Tennessee Code Annotated, Section 29-26-120, is amended by deleting the section in its entirety and substituting instead the following:

29-26-120.

(a) As used in this part, unless the context otherwise requires:

(2) “Health care provider” means a health care practitioner licensed, certified, or registered under any chapter of title 63 or 68, a nongovernmental health care facility licensed under title 68, chapter 11, a nongovernmental health facility licensed under title 33, chapter 2, part 4, the employee of a health care provider involved in the provision of health care or a professional corporation or professional limited liability company as established pursuant to title 48.

(1) “Health care liability action” means any civil action against a health care provider or providers in which the claimant alleges injury related to the provision of or failure to provide health care services, regardless of the theory of liability on which the action is based. Any such

civil action is subject to this part regardless of any other claims, causes of action, or theories of liability alleged in the complaint; and

(b) Compensation for reasonable attorneys' fees, in the event an employment contract exists between the claimant and claimant's attorney on a contingent fee arrangement, shall be awarded to the claimant's attorney in a health care liability action in an amount to be determined by the court on the basis of time and effort devoted to the litigation by the claimant's attorney, complexity of the claim, and other pertinent matters in connection therewith, not to exceed the following limitations:

(1) Forty percent (40%) of the first fifty thousand dollars (\$50,000) of damages recovered;

(2) Thirty-three and one-third percent (33 1/3%) of the next fifty thousand dollars (\$50,000) of damages recovered;

(3) Twenty-five percent (25%) of the next five hundred thousand dollars (\$500,000) of damages recovered;

(4) Fifteen percent (15%) of any amount by which the recovery exceeds six hundred thousand dollars (\$600,000).

(c) The limitations set out in subsection (b) shall apply regardless of whether the recovery is by means of settlement, arbitration, or judgment, and regardless of whether the person for whom the recovery is made is a responsible adult, infant, or person of unsound mind.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect on July 1, 2011, the public welfare requiring it and shall apply to all affected causes of action accruing on or after such date.