

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 78** SLS 16RS 146
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

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Dept./Agy.: Division of Administration	Analyst: Matthew LaBruyere
Subject: Malpractice	

MALPRACTICE OR SEE FISC NOTE GF EX Page 1 of 1
 Increases medical malpractice cap for child brain injuries. (gov sig)

Present law relative to medical malpractice limits the total amount recoverable for all malpractice claims for injuries to or death of a patient, exclusive of future medical care and related benefits, to a maximum of \$500,000 plus interest and cost.

Proposed law creates an exception to present law by providing that the total amount recoverable for certain malpractice claims for brain injuries to a child, exclusive of future medical care and related benefits, shall not exceed five million dollars plus interest and costs. However, proposed law applies only when either (1) a medical review panel renders a unanimous opinion in favor of the claimant as provided in the expert opinions stated in present law or (2) liability is determined unanimously by a jury.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The proposed legislation may result in an increase in self-generated revenue expenditures as a result of increasing the maximum malpractice amount to \$5 M for malpractice claims for brain injuries to a child. In the event a claim is made against the state involving a brain injury to a child sustained through malpractice, the Office of Risk Management would be responsible for paying the claim. Under current law, the malpractice limit is \$500,000. Under the proposed law, the limit is \$5 M.

The exact increase in self-generated revenue expenditures is indeterminable since it is unknown how many children will sustain a brain injury while receiving health care from a state entity and if either the medical review panel or a jury will render a unanimous decision regarding the injury. To the extent such an event does occur and the full recoverable amount is \$5 M, the paid claim would increase by \$4.5 M. Any claims paid as a result of this legislation will also impact future premium amounts charged to state health care facilities.

Based on historical amounts, the average total of all medical malpractice claims paid from FY 12 - FY 14 was \$13.4 M. Additional expenses including attorney, expert, investigator and third party administrator costs have averaged \$8.1 M during the same time period. Premiums collected during this time period have averaged \$12.2 M.

To the extent the ORM Self Insurance Fund has insufficient funds to cover the increased medical malpractice amount, state general fund may be needed.

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate Dual Referral Rules House

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| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

John D. Carpenter
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Legislative Fiscal Officer