**South Carolina General Assembly**

120th Session, 2013-2014

**S. 853**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Coleman and Hutto

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Introduced in the Senate on January 14, 2014

Currently residing in the Senate Committee on **Judiciary**

Summary: Tort Claims Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2013 Senate Prefiled

12/10/2013 Senate Referred to Committee on **Judiciary**

1/14/2014 Senate Introduced and read first time ([Senate Journal‑page 47](file:///H:\SJ%20Archive\2014\01-14-14.docx))

1/14/2014 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 47](file:///H:\SJ%20Archive\2014\01-14-14.docx))

**VERSIONS OF THIS BILL**

[12/10/2013](file:///p:\pprever\2013-14\853_20131210.docx)

**A** **BILL**

TO AMEND SECTION 15‑78‑120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIMITATION ON LIABILITY UNDER THE TORT CLAIMS ACT, SO AS TO DELETE THE PER OCCURRENCE CAP OF SIX HUNDRED THOUSAND DOLLARS AND THE ONE MILLION TWO HUNDRED THOUSAND DOLLAR PER OCCURRENCE CAP FOR ANY TORT CAUSED BY A LICENSED PHYSICIAN OR DENTIST EMPLOYED BY A GOVERNMENTAL ENTITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15‑78‑120 of the 1976 Code is amended to read:

“Section 15‑78‑120. ~~(a)~~(A) For any action or claim for damages brought ~~under~~ pursuant to the provisions of this chapter, the liability shall not exceed the following limits:

(1) Except as provided in ~~Section 15‑78‑120(a)(3)~~ item (2), no person shall recover in any action or claim brought hereunder a sum exceeding three hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(2) ~~Except as provided in Section 15‑78‑120(a)(4), the total sum recovered hereunder arising out of a single occurrence shall not exceed six hundred thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved.~~

~~(3)~~ No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding one million two hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

~~(4)~~ ~~The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed one million two hundred thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved.~~

~~(5)~~(3) The provisions of ~~Section 15‑78‑120(a)(3) and (a)(4)~~ item (2) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity or fees received from any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State.

~~(b)~~(B) No award for damages ~~under~~ pursuant to this chapter shall include punitive or exemplary damages or interest prior to judgment.

~~(c)~~(C) In any claim, action, or proceeding to enforce a provision of this chapter, the signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well‑grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney’s fee.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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