

HB 1859 - DIGEST

Finds that: (1) Physicians and advanced registered nurse practitioners practicing obstetrics are high-risk medical specialists for whom malpractice insurance premiums are very costly, and recent increases in such premiums have been greater for such physicians than for other physicians.

(2) Because obstetric services are essential and the state of Washington currently pays for almost half of the births in the state through its medical assistance programs, it is incumbent upon the legislature to provide a plan designed to result in the stabilization and reduction of malpractice insurance premiums for providers of obstetric services in Washington.

(3) The costs of birth-related injury claims are particularly high and warrant the establishment of a limited system of compensation irrespective of fault. The issue of whether such claims are covered by this chapter must be determined exclusively in an administrative proceeding.

Declares an intent to provide compensation, on a no-fault basis, for a limited class of birth-related injuries that result in high costs for custodial care and rehabilitation. This plan applies only to birth-related injuries.

Establishes the Washington birth-related injury compensation plan for the purpose of providing compensation, irrespective of fault, for birth-related injury claims. The plan applies to births occurring on or after January 1, 2007, and is administered by the Washington birth-related injury compensation association.

Declares that the rights and remedies granted by this plan on account of a birth-related injury that is covered by this act are exclusive and preclude all other rights and remedies at common law or otherwise of the claimant arising out of or related to a medical negligence claim with respect to the injury against any person or entity directly involved in the labor, delivery, or immediate postdelivery resuscitation during which the injury occurs.

Declares that a civil action is not foreclosed under this act when: (1) There is a preponderance of the evidence showing that the acts or omissions of the hospital, childbirth center, physician, or advanced registered nurse practitioner were made in bad faith or with malicious purpose or willful or wanton disregard of human rights, safety, or property; and

(2) The suit is filed prior to and in lieu of payment of an award under this act.