

By the Committee on Transportation and Senator Myers

306-670-00

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A bill to be entitled

An act for the relief of Elizabeth Schnell and Frederick Schnell; providing an appropriation to compensate them for injuries and damages sustained as a result of the negligence of the Department of Highway Safety and Motor Vehicles; providing an effective date.

WHEREAS, at 7:15 a.m. on January 25, 1997, Frederick Schnell was operating his motor vehicle, in which his wife Elizabeth Schnell was a passenger, westbound on State Road 60 approximately 1 mile west of Interstate 95 in Indian River County, and

WHEREAS, Mr. Schnell was traveling at the posted speed limit of 55 miles per hour, and

WHEREAS, Trooper Wayne Titus was traveling eastbound on State Road 60 and, for unknown reasons, Trooper Titus abruptly changed lanes and collided head-on with the Schnell vehicle, and

WHEREAS, Trooper Titus was traveling approximately 71 miles per hour at the point of impact, and

WHEREAS, the circuit court judge ruled as a matter of law that the Department of Highway Safety and Motor Vehicles was responsible for Mr. and Mrs. Schnell's injuries and damages, and

WHEREAS, Mr. Schnell suffered extensive physical injuries, and

WHEREAS, Mr. Schnell continued medical treatment for his physical injuries through April 21, 1997, then discontinued treatment because of the necessity to be with his wife, and

1 WHEREAS, Mr. Schnell has undergone, and continues to
2 undergo, psychiatric treatment and counseling for a permanent
3 psychiatric injury resulting from the accident, and

4 WHEREAS, Mrs. Schnell was transported by helicopter
5 from the scene of the accident to Holmes Regional Medical
6 Center in Melbourne, where she underwent emergency, lifesaving
7 surgery to ameliorate a catastrophic brain injury sustained in
8 the accident, and she subsequently underwent four additional
9 surgeries during her hospitalization, and

10 WHEREAS, on March 3, 1997, Mrs. Schnell, who was
11 semicomatose, was transferred to Orlando Regional Medical
12 Center, Sandlake Hospital, and

13 WHEREAS, at Sandlake Hospital, Mrs. Schnell began
14 speech, occupational, and physical therapy and underwent
15 another major surgical procedure, and

16 WHEREAS, while hospitalized in Orlando, Mrs. Schnell
17 was declared by the court to be an incapacitated person, and
18 her husband was appointed her legal guardian, and

19 WHEREAS, on June 24, 1997, Mrs. Schnell was transferred
20 to Healthsouth Treasure Coast Rehabilitation Hospital in Vero
21 Beach and was later transferred to Florida Institute for
22 Neurologic Rehabilitation in Wauchula, Florida, and

23 WHEREAS, she presently requires care 24 hours a day,
24 must use a wheelchair, has paralysis of her right side, has
25 moderate loss of her short-term memory, and requires
26 assistance in all her daily activities, and

27 WHEREAS, Mrs. Schnell's doctors and case managers
28 recommend that, upon discharge from the Florida Institute, she
29 be transferred to the home environment and cared for there,
30 with the aid of attendants and residential services, and

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1 continual lifetime speech, occupational, and physical
2 therapies, and

3 WHEREAS, before the accident, Mrs. Schnell was a
4 41-year-old attorney who also had a bachelor's degree and one
5 master's degree, and was working toward a second master's
6 degree, and

7 WHEREAS, after 7 days of trial, a jury awarded Mrs.
8 Schnell \$875,446 for past medical bills and lost wages,
9 \$9,331,774 for future medical bills and lost wages, \$1 million
10 for past pain and suffering, and \$5 million for future pain
11 and suffering, for a total award of \$16,207,220, and

12 WHEREAS, the jury also awarded Mr. Schnell \$41,159 for
13 past medical bills and lost wages and \$4,171 for future lost
14 wages, \$500,000 for past pain and suffering and \$1 million for
15 future pain and suffering, and damages for the loss of his
16 wife's consortium in the amount of \$500,000 for past loss and
17 \$1 million for the future, for a total award of \$3,045,330,
18 and,

19 WHEREAS, after the jury's verdict was entered, the
20 trial judge ordered a remittitur, reducing the award to Mrs.
21 Schnell to \$14,784,089 and reducing the award to Mr. Schnell
22 to \$2,227,468.84, and

23 WHEREAS, the Department of Highway Safety and Motor
24 Vehicles has paid a total of \$200,000 to the claimants under
25 section 768.28, Florida Statutes, Florida's sovereign immunity
26 law, and

27 WHEREAS, after final judgment was entered, the parties
28 agreed to settle all outstanding claims in this matter for
29 \$9,750,000, to be paid to the claimants pursuant to a claim
30 bill, and

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1 WHEREAS, the \$9,750,000 settlement amount will be
2 appORTIONED as follows: for Elizabeth Schnell in the amount of
3 \$8,473,349.07 and for Frederick Schnell in the amount of
4 \$1,276,650.93, NOW, THEREFORE,

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6 Be It Enacted by the Legislature of the State of Florida:

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8 Section 1. The facts stated in the preamble to this
9 act are found and declared to be true.

10 Section 2. The sum of \$8,473,349.07 is appropriated
11 out of funds in the State Treasury to the credit of the
12 Department of Highway Safety and Motor Vehicles to be paid to
13 Elizabeth Schnell as relief for her losses; and the sum of
14 \$1,276,650.93 is appropriated out of funds in the State
15 Treasury to the credit of the Department of Highway Safety and
16 Motor Vehicles to be paid to Frederick Schnell as relief for
17 his losses.

18 Section 3. The Comptroller is directed to draw a
19 warrant in favor of Elizabeth Schnell in the sum of
20 \$8,473,349.07 and to draw a warrant in favor of Frederick
21 Schnell in the sum of \$1,276,650.93, upon funds in the State
22 Treasury to the credit of the Department of Highway Safety and
23 Motor Vehicles, and the State Treasurer is directed to pay the
24 same out of such funds.

25 Section 4. This act shall take effect upon becoming a
26 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 10

The Committee Substitute for allows for the payment of \$8,473,349.07 to Elizabeth Schnell and for the payment of \$1,276,650.93 to Frederick Schnell in conformance with the terms of the settlement agreement.