

By Senator Dyer

14-46A-00

1                                   A bill to be entitled  
2           An act relating to Orange County; providing for  
3           the relief of Maria Garcia, as legal guardian  
4           of Delfina Benjumea, for injuries and damages  
5           sustained by Ms. Benjumea as a result of the  
6           negligence of the Orange County Sheriff's  
7           Office; providing an effective date.  
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9           WHEREAS, on July 11, 1996, Delfina Benjumea, an  
10          82-year-old woman, had come to the Orlando area from Colombia  
11          to visit her family, and  
12           WHEREAS, while in Orlando, Ms. Benjumea participated in  
13          a senior-citizen program run by the City of Orlando, and  
14           WHEREAS, on July 11, 1996, a fellow participant in the  
15          program gave Ms. Benjumea a ride from the center and  
16          mistakenly left her at an apartment complex other than the one  
17          in which her daughter resided, and  
18           WHEREAS, in an effort to walk to her daughter's home,  
19          Ms. Benjumea became lost, and a sheriff's deputy undertook to  
20          drive her to adult protective services, and  
21           WHEREAS, on the way to their destination, the deputy  
22          rear-ended a 1992 Lexus automobile at such a speed as to cause  
23          airbags in the sheriff's vehicle to deploy, and  
24           WHEREAS, after the accident, Ms. Benjumea was evaluated  
25          at a hospital for complaints of neck and back pain and  
26          released, but, during the next several weeks, she experienced  
27          increased headaches, dizziness, and confusion, and  
28           WHEREAS, on August 3, 1996, Maria Garcia found her  
29          mother lying in the grass in front of her apartment complex,  
30          and Ms. Benjumea was taken to Florida Hospital South, where a  
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1 CT Scan of the brain revealed very large bilateral subacute  
2 subdural hematomas, and

3 WHEREAS, surgical procedures were performed to open the  
4 skull and relieve the hematomas, and

5 WHEREAS, Ms. Benjumea was released from the hospital 3  
6 days later but returned there in September 1996, because of  
7 coagulation and clotting, and

8 WHEREAS, at a trial based on allegations that the  
9 aforementioned accident had caused brain injury, a neurologist  
10 testified that Ms. Benjumea had suffered a traumatic brain  
11 injury with residual cognitive and behavioral impairment and  
12 further concluded that Ms. Benjumea is totally incapacitated  
13 and is in need of constant supervision, and

14 WHEREAS, a three-person medical panel, in connection  
15 with Ms. Benjumea's guardianship proceeding in 1997, issued  
16 findings consistent with the doctor's opinion, and

17 WHEREAS, at trial, a jury determined that the sheriff  
18 was 100 percent at fault in the accident, and the jury awarded  
19 Ms. Benjumea damages totalling \$384,433, including \$87,745 for  
20 past medical expenses, \$172,000 for future medical expenses,  
21 and \$124,688 for past and future pain and suffering, and

22 WHEREAS, plaintiff agreed to a remittitur post-trial,  
23 and a final judgment in the amount of \$362,954, including  
24 taxable costs, was entered in October, 1998, and

25 WHEREAS, the sheriff has tendered \$100,000 in  
26 accordance with the limits on waiver of sovereign immunity  
27 which are set forth in section 768.28, Florida Statutes, NOW,  
28 THEREFORE,

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

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

3           Section 2. The Sheriff of Orange County is authorized  
4 and directed to compensate Maria Garcia, as legal guardian of  
5 Delfina Benjumea, in the amount of \$262,954 for injuries and  
6 damages sustained by Ms. Benjumea as a result of the  
7 negligence of an employee of the sheriff's office, such  
8 compensation to be paid out of the funds of the Orange County  
9 Sheriff's Office not otherwise appropriated.

10           Section 3. This act shall take effect upon becoming a  
11 law.

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