

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 for a reversionary interest  
8           to the Orange County Sheriff's Office;  
9           providing legislative intent with respect to  
10          expenditures; providing an effective date.

11  
12           WHEREAS, on July 11, 1996, Delfina Benjumea, an  
13          82-year-old woman, had come to the Orlando area from Colombia  
14          to visit her family, and

15           WHEREAS, while in Orlando, Ms. Benjumea participated in  
16          a senior-citizen program run by the City of Orlando, and

17           WHEREAS, on July 11, 1996, a fellow participant in the  
18          program gave Ms. Benjumea a ride from the center and  
19          mistakenly left her at an apartment complex other than the one  
20          in which her daughter resided, and

21           WHEREAS, in an effort to walk to her daughter's home,  
22          Ms. Benjumea became lost, and a sheriff's deputy undertook to  
23          drive her to adult protective services, and

24           WHEREAS, on the way to their destination, the deputy  
25          rear-ended a 1992 Lexus automobile at such a speed as to cause  
26          airbags in the sheriff's vehicle to deploy, and

27           WHEREAS, after the accident, Ms. Benjumea was evaluated  
28          at a hospital for complaints of neck and back pain and  
29          released, but, during the next several weeks, she experienced  
30          increased headaches, dizziness, and confusion, and

31

1           WHEREAS, on August 3, 1996, Maria Garcia found her  
2 mother lying in the grass in front of her apartment complex,  
3 and Ms. Benjumea was taken to Florida Hospital South, where a  
4 CT Scan of the brain revealed very large bilateral subacute  
5 subdural hematomas, and

6           WHEREAS, surgical procedures were performed to open the  
7 skull and relieve the hematomas, and

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

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

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

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

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

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

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

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

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

Section 2. The Orange County Sheriff's Office is authorized and directed to appropriate from funds of the sheriff's office not otherwise appropriated and to draw a warrant in the sum of \$262,954 payable to Maria Garcia, as legal guardian of Delfina Benjumea, to be placed in the guardianship account of Delfina Benjumea, to compensate her for injuries and damages sustained as a result of the negligence of an employee of the Orange County Sheriff's Office. Upon the death of Ms. Benjumea, any balance of the \$262,954 remaining in the guardianship account, shall revert to the Orange County Sheriff's Office. It is the intent of the Legislature that no funds appropriated herein be spent, incurred, or obligated under the guardianship account for any extraordinary expenditures without prior order of the circuit court.

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