

By Representative Ritter

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; providing for an
5 appropriation to compensate her for injuries
6 and damages sustained by Delfina Benjumea as a
7 result of the negligence of the Orange County
8 Sheriff's Office; providing for a reversionary
9 interest to the Orange County Sheriff's Office;
10 providing legislative intent with respect to
11 expenditures; providing an effective date.

12
13 WHEREAS, on July 11, 1996, Delfina Benjumea, the
14 82-year-old mother of Maria Garcia, had come to the Orlando
15 area from Colombia to visit her family, and

16 WHEREAS, while in Orlando, Delfina Benjumea
17 participated in a senior-citizen program run by the City of
18 Orlando, and

19 WHEREAS, on July 11, 1996, a fellow participant in the
20 program gave Delfina Benjumea a ride from the center at which
21 the senior-citizen program was conducted and mistakenly left
22 her at an apartment complex other than the one in which her
23 daughter resided, and

24 WHEREAS, in an effort to walk to her daughter's home,
25 Delfina Benjumea became lost, and an Orange County sheriff's
26 deputy undertook to drive her to adult protective services,
27 and

28 WHEREAS, on the way to their destination, the deputy
29 rear-ended an automobile at such a speed as to cause airbags
30 in the sheriff's vehicle to deploy, and

31

1 WHEREAS, after the accident, Delfina Benjumea was
2 evaluated at a hospital for complaints of neck and back pain
3 and released, but, during the next several weeks, she
4 experienced increased headaches, dizziness, and confusion, and

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

10 WHEREAS, surgical procedures were performed to open the
11 skull and relieve the hematomas, and

12 WHEREAS, Delfina Benjumea was released from the
13 hospital 3 days later but returned there in September 1996,
14 because of coagulation and clotting, and

15 WHEREAS, at a trial based on allegations that the
16 aforementioned accident had caused brain injury, a neurologist
17 testified that Delfina Benjumea had suffered a traumatic brain
18 injury with residual cognitive and behavioral impairment and
19 further concluded that Delfina Benjumea is totally
20 incapacitated and is in need of constant supervision, and

21 WHEREAS, a three-person medical panel, in connection
22 with Delfina Benjumea's guardianship proceeding in 1997,
23 issued findings consistent with the doctor's opinion, and

24 WHEREAS, at trial, a jury determined that the sheriff
25 was 100 percent at fault in the accident, and the jury awarded
26 Delfina Benjumea damages totalling \$384,433, including \$87,745
27 for past medical expenses, \$172,000 for future medical
28 expenses, and \$124,688 for past and future pain and suffering,
29 and

30
31

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

4 WHEREAS, the sheriff has tendered \$100,000 in
5 accordance with the limits on waiver of sovereign immunity
6 which are set forth in section 768.28, Florida Statutes, NOW,
7 THEREFORE,

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. The facts stated in the preamble to this
12 act are found and declared to be true.

13 Section 2. The Orange County Sheriff's Office is
14 authorized and directed to appropriate from funds of the
15 sheriff's office not otherwise appropriated and to draw a
16 warrant in the sum of \$262,954, payable to Maria Garcia, as
17 legal guardian of Delfina Benjumea, to be placed in the
18 guardianship account of Delfina Benjumea to compensate Delfina
19 Benjumea for injuries and damages sustained as a result of the
20 negligence of the Orange County Sheriff's Office. Upon the
21 death of Delfina Benjumea, any balance of this appropriation
22 remaining in the guardianship account shall revert to the
23 Orange County Sheriff's Office. It is the intent of the
24 Legislature that no funds appropriated by this act be spent,
25 incurred, or obligated under the guardianship account for any
26 extraordinary expenditures without prior order of the circuit
27 court.

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