

By Senator Dyer

14-29A-02

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.

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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

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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:

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

5 Section 2. The Orange County Sheriff's Office is
6 authorized and directed to appropriate from funds of the
7 sheriff's office not otherwise appropriated and to draw a
8 warrant in the sum of \$262,954, which amount includes
9 statutory attorney's fees and costs, payable to Maria Garcia
10 as legal guardian of Delfina Benjumea, to be placed in the
11 guardianship account of Delfina Benjumea to compensate Delfina
12 Benjumea for injuries and damages sustained as a result of the
13 negligence of an employee of the Orange County Sheriff's
14 Office. Upon the death of Ms. Benjumea, any balance of this
15 appropriation remaining in the guardianship account shall
16 revert to the Orange County Sheriff's Office. It is the intent
17 of the Legislature that no funds appropriated by this act be
18 spent, incurred, or obligated under the guardianship account
19 for any extraordinary expenditures without prior order of the
20 circuit court.

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

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