

By the Committee on Finance and Taxation; and Senator Dyer

314-1815-02

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 legislative intent with  
8           respect to expenditures; providing an effective  
9           date.

10  
11           WHEREAS, on July 11, 1996, Delfina Benjumea, an  
12           82-year-old woman, had come to the Orlando area from Colombia  
13           to visit her family, and

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

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

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

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

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

30           WHEREAS, on August 3, 1996, Maria Garcia found her  
31           mother lying in the grass in front of her apartment complex,

1 and Ms. Benjumea was taken to Florida Hospital South, where a  
2 CT Scan of the brain revealed very large bilateral subacute  
3 subdural hematomas, and

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

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

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

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

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

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

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

30

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

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

3           Section 2. The Orange County Sheriff's Office is  
4 authorized and directed to appropriate from funds of the  
5 sheriff's office not otherwise appropriated and to draw a  
6 warrant in the sum of \$152,500, which amount includes  
7 statutory attorney's fees and costs, payable to Maria Garcia  
8 as legal guardian of Delfina Benjumea, to be placed in the  
9 guardianship account of Delfina Benjumea to compensate Delfina  
10 Benjumea for injuries and damages sustained as a result of the  
11 negligence of an employee of the Orange County Sheriff's  
12 Office. It is the intent of the Legislature that no funds  
13 appropriated by this act be spent, incurred, or obligated  
14 under the guardianship account for any extraordinary  
15 expenditures without prior order of the circuit court.

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

18  
19                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
20   COMMITTEE SUBSTITUTE FOR  
21   SB 42

22 The Committee Substitute conforms the bill to the terms of a  
23 settlement reached between the parties to the suit on January  
24 23, 2002. The amount of the settlement is reduced to \$152,500  
and there is no reversion of funds to the Sheriff's Office on  
the death of the Ms. Benjumea.