

By Senator Jones

40-76A-02

1 A bill to be entitled
2 An act relating to the Monroe County School
3 District; providing for the relief of Joshua
4 England, a minor, authorizing and directing the
5 District School Board of Monroe County to
6 compensate Joshua England for personal injuries
7 that he suffered due to the negligence of
8 school board employees; providing for the use
9 of such funds; providing for forfeiture and
10 reversion of the funds; providing for trustee
11 qualifications; providing an effective date.

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13 WHEREAS, on September 3, 1999, Joshua England was at
14 the Key West High School swimming pool, along with 10 other
15 students who were enrolled in the school's special education
16 class, and was under the direct and sole supervision of five
17 teachers from Key West High School, who were employees of the
18 District School Board of Monroe County, and

19 WHEREAS, the students, including Joshua, were at the
20 pool to swim; however, Joshua did not know how to swim, a fact
21 that was known by Joshua's teachers, and

22 WHEREAS, the teachers failed to monitor Joshua's
23 activities and his location, inexcusably allowing him to sink
24 unnoticed to the bottom of the pool, and

25 WHEREAS, when the teachers found Joshua at the bottom
26 of the pool, he was not breathing, and

27 WHEREAS, he was subsequently airlifted to Miami
28 Children's Hospital, where he remained for approximately 3
29 months, and

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1 WHEREAS, Joshua was subsequently stabilized and
2 transferred to the special care/vent care unit of North Shore
3 Hospital, where he remains in a vegetative state, and

4 WHEREAS, Joshua will require full-time,
5 around-the-clock nursing care for the remainder of his life,
6 and

7 WHEREAS, in March 2000, a suit was filed on Joshua's
8 behalf against the District School Board of Monroe County, and

9 WHEREAS, the plaintiffs and the school board have
10 entered into a stipulation of settlement by which both parties
11 agree that Joshua will seek a claim bill under which the
12 school board will pay \$2.5 million above the amount already
13 paid to settle claims relating to this matter, and

14 WHEREAS, the agreement further specifies the payment
15 schedule that is to be followed, NOW, THEREFORE,

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

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

21 Section 2. (1) The District School Board of Monroe
22 County is authorized and directed to appropriate from funds
23 not otherwise appropriated, and to draw a warrant payable to
24 the guardian of Joshua England, a minor, for the total amount
25 of \$2.5 million for injuries and damages sustained due to the
26 negligence of employees of the school district. This amount
27 shall be paid as follows:

28 (a) The balance remaining from the sum of \$1.5
29 million, after payment of statutory attorney's fees and costs
30 and any outstanding medical liens, shall be placed in a
31 Special Needs Trust created for the exclusive use and benefit

1 of Joshua England, a minor, to compensate him for injuries and
2 damages sustained; and

3 (b) The sum of \$200,000 shall be placed in the Special
4 Needs Trust for the exclusive use and benefit of Joshua
5 England on July 1, 2003, and on each July 1 occurring for 4
6 years thereafter, until an additional cumulative sum of \$1
7 million is paid to the Special Needs Trust.

8 (2) If Joshua England dies prior to payment of any
9 sums required in paragraph (1)(b), any unpaid sums due at the
10 time of his death are forfeited on a pro-rated basis for the
11 year of death, and thereafter, the District School Board of
12 Monroe County is not obligated to make any additional
13 payments.

14 (3) Any funds remaining in the Special Needs Trust at
15 the time of Joshua England's death, after the payment of any
16 outstanding Medicaid liens, shall revert to the District
17 School Board of Monroe County.

18 (4) At least one trustee of the Special Needs Trust
19 established for the benefit of Joshua England must possess
20 financial and trust management experience, and may not be a
21 relative of Joshua England. The term "relative" as used in
22 this subsection means a parent, grandparent, sibling, cousin,
23 aunt, uncle, niece or nephew, whether related by whole or half
24 blood, by affinity, or by adoption.

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

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