

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

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

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

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

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

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

30           WHEREAS, after the accident, Delfina Benjumea was  
31          evaluated at a hospital for complaints of neck and back pain

1 and released, but, during the next several weeks, she  
2 experienced increased headaches, dizziness, and confusion, and

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

8 WHEREAS, surgical procedures were performed to open the  
9 skull and relieve the hematomas, and

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

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

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

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

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

31

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

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

7  
8           Section 1. The facts stated in the preamble to this  
9 act are found and declared to be true.

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

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