

Bill No. SB 72

Amendment No.      Barcode 273290

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Diaz de la Portilla moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

Section 2. The Lee County School Board is authorized and directed to appropriate from funds not otherwise appropriated, and to draw a warrant in the amount of \$75,000, which amount includes statutory attorney's fees and costs, payable to Michelle Darna and Jacob Darna, legal guardians of Jacob P. Darna, to be placed in the guardianship account of Jacob P. Darna to compensate him for injuries and damages sustained as a result of the negligence of the Lee County School Board. Upon the death of Jacob P. Darna, any balance of the \$75,000 remaining in the guardianship account shall revert to the Lee County School Board. It is the intent of the Legislature that no funds exceeding \$75,000 appropriated by this act be subsequently spent, or any obligation thereof be

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1 subsequently incurred by the guardian, without prior order of  
2 the circuit court.

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

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7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause

10

11 and insert:

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A bill to be entitled

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An act relating to Lee County; providing for  
14 the relief of Jacob P. Darna, a minor, for  
15 injuries sustained as a result of the  
16 negligence of the Lee County School Board;  
17 providing an effective date.

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WHEREAS, on May 23, 1995, Jacob P. Darna was a  
20 10-year-old fifth-grade student who accompanied his elementary  
21 school class on an orientation trip to Trafalgar Middle School  
22 in Cape Coral, Lee County, Florida, and

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WHEREAS, Jacob's elementary school had no bleachers and  
24 he had little experience in walking on bleachers, and

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WHEREAS, the bleachers at the Trafalgar Middle School  
26 gymnasium have lines on them indicating that the occupancy  
27 level should be 1 person per set of lines; however, the  
28 teachers did not sit the students according to the occupancy  
29 levels, and, in some instances, the teachers admitted that  
30 they "packed the kids in there," and

31

WHEREAS, the bleachers were "pullout" bleachers and had

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1 no aisles to walk down, although there were metal railings at  
2 each end to ensure that the children would not fall off the  
3 sides, and

4 WHEREAS, upon completion of the program, the children  
5 did not receive specific instruction from the teachers to walk  
6 to the end of the rows before descending so they proceeded  
7 down the seats en masse in an unstructured and unsupervised  
8 manner, and

9 WHEREAS, Jacob P. Darna, upon reaching the row of seats  
10 closest to the gymnasium floor, felt a push from the crowd  
11 behind him and fell to the ground, landing on his knee and  
12 hip, and

13 WHEREAS, Jacob was transported from the accident scene  
14 by emergency medical services personnel and was taken to Cape  
15 Coral Hospital, and subsequently transferred to Lee Memorial  
16 Hospital, and

17 WHEREAS, it was determined that Jacob P. Darna suffered  
18 a Grade III slipped capital femoral epiphysis of his left hip,  
19 and

20 WHEREAS, surgery was immediately performed on Jacob  
21 Darna and pins and screws were placed in his hip, and

22 WHEREAS, following the surgery, Jacob was left with a  
23 significant limp and will continue to suffer with a limp the  
24 rest of his life and has been advised by his doctors that he  
25 will need a full-hip replacement in the future, and

26 WHEREAS, as a result of his injury and resulting  
27 surgeries, Jacob P. Darna had to undergo further surgery to  
28 his non-injured leg to shorten it in an effort to compensate  
29 for the difference in the length of his two legs, and

30 WHEREAS, Jacob P. Darna's medical bills totaled  
31 \$32,100.91, and the Lee County School Board was given the

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1 opportunity to settle this matter for \$20,000, based upon an  
2 offer of judgment, but the highest offer the board made was  
3 \$5,000, and

4 WHEREAS, the matter went to a jury trial and Jacob P.  
5 Darna was awarded \$268,750, and, as of June 13, 2001, the  
6 school board had not appealed the judgment, but verbally  
7 indicated that it will pay the amount it owes under section  
8 768.28, Florida Statutes, and

9 WHEREAS, the claimant and the Lee County School Board  
10 have agreed to a settlement of the claim in the amount of  
11 \$75,000, and

12 WHEREAS, after payment of the amount paid under section  
13 768.28, Florida Statutes, the remaining excess-judgment amount  
14 will be \$75,000, NOW, THEREFORE,

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