

By Senator Diaz de la Portilla

34-71-02

1 A bill to be entitled
2 An act relating to Lee County; providing for
3 the relief of Jacob P. Darna, a minor, for
4 injuries sustained as a result of the
5 negligence of the Lee County School Board;
6 providing an effective date.

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8 WHEREAS, on May 23, 1995, Jacob P. Darna was a
9 10-year-old fifth-grade student who accompanied his elementary
10 school class on an orientation trip to Trafalgar Middle School
11 in Cape Coral, Lee County, Florida, and

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

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

20 WHEREAS, the bleachers were "pullout" bleachers and had
21 no aisles to walk down, although there were metal railings at
22 each end to ensure that the children would not fall off the
23 sides, and

24 WHEREAS, upon completion of the program, the children
25 did not receive specific instruction from the teachers to walk
26 to the end of the rows before descending so they proceeded
27 down the seats en masse in an unstructured and unsupervised
28 manner, and

29 WHEREAS, Jacob P. Darna, upon reaching the row of seats
30 closest to the gymnasium floor, felt a push from the crowd

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1 behind him and fell to the ground, landing on his knee and
2 hip, and

3 WHEREAS, Jacob was transported from the accident scene
4 by emergency medical services personnel and was taken to Cape
5 Coral Hospital, and subsequently transferred to Lee Memorial
6 Hospital, and

7 WHEREAS, it was determined that Jacob P. Darna suffered
8 a Grade III slipped capital femoral epiphysis of his left hip,
9 and

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

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

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

20 WHEREAS, Jacob P. Darna's medical bills totaled
21 \$32,100.91, and the Lee County School Board was given the
22 opportunity to settle this matter for \$20,000, based upon an
23 offer of judgment, but the highest offer the board made was
24 \$5,000, and

25 WHEREAS, the matter went to a jury trial and Jacob P.
26 Darna was awarded \$268,750, and, as of June 13, 2001, the
27 school board had not appealed the judgment, but verbally
28 indicated that it will pay the amount it owes under section
29 768.28, Florida Statutes, and

30 WHEREAS, after such payment, the remaining
31 excess-judgment amount will be \$168,750, NOW, 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 Lee County School Board is authorized
6 and directed to appropriate from funds not otherwise
7 appropriated, and to draw a warrant in the amount of \$168,750,
8 which amount includes statutory attorney's fees and costs,
9 payable to Michelle Darna and Jacob Darna, legal guardians of
10 Jacob P. Darna, to be placed in the guardianship account of
11 Jacob P. Darna to compensate him for injuries and damages
12 sustained as a result of the negligence of the Lee County
13 School Board. Upon the death of Jacob P. Darna, any balance of
14 the \$168,750 remaining in the guardianship account shall
15 revert to the Lee County School Board. It is the intent of the
16 Legislature that no funds exceeding \$168,750 appropriated by
17 this act be subsequently spent, or any obligation thereof be
18 subsequently incurred by the guardian, without prior order of
19 the circuit court.

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

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