

By the Committee on Finance and Taxation; and Senator Saunders

314-1885-03

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A bill to be entitled

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

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

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

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

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

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

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

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

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1           WHEREAS, the claimant and the Lee County School Board  
2 have agreed to a settlement of the claim in the amount of  
3 \$75,000, and

4           WHEREAS, after payment of the amount paid under section  
5 768.28, Florida Statutes, the remaining excess-judgment amount  
6 will be \$75,000, NOW, THEREFORE,

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

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

12           Section 2. The Lee County School Board is authorized  
13 and directed to appropriate from funds not otherwise  
14 appropriated, and to draw a warrant in the amount of \$75,000,  
15 which amount includes statutory attorney's fees and costs,  
16 payable to Jacob P. Darna to compensate him for injuries and  
17 damages sustained as a result of the negligence of the Lee  
18 County School Board.

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

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22                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
23   COMMITTEE SUBSTITUTE FOR  
24   SB 20

25 The CS for SB 20 amends the bill to reflect that claimant is  
26 no longer a minor and directs payment to claimant without  
creating a guardianship account.