

HB 0301

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1                                   A bill to be entitled  
 2           An act for the relief of Doretta Spurway; providing an  
 3           appropriation to compensate her for injuries she sustained  
 4           as a result of the negligence of an employee of the  
 5           Department of Highway Safety and Motor Vehicles; providing  
 6           an effective date.

7  
 8           WHEREAS, on January 30, 1998, a vehicle driven by Carol  
 9           Jean Robinson struck the rear of a vehicle driven by Doretta  
 10          Spurway while Ms. Spurway was stopped in traffic on State Road  
 11          60 at the intersection of Sharewood Drive in Brandon, Florida,  
 12          and

13          WHEREAS, at the time of the accident, Carol Jean Robinson  
 14          was acting within the course and scope of her employment with  
 15          the Department of Highway Safety and Motor Vehicles, and

16          WHEREAS, at the time of the accident, Doretta Spurway was  
 17          56 years of age and was 58 years of age at the time of the  
 18          trial, having a life expectancy of 24.7 years, and

19          WHEREAS, as a result of the accident, Doretta Spurway  
 20          suffered an elevation of the humeral head resulting in  
 21          impingement, spurring to the right AC joint contributing to the  
 22          impingement, persistent right shoulder subacromial bursitis,  
 23          cervical strain, right shoulder strain, headaches, aggravation  
 24          of spondylosis at C6/7 with disc-space narrowing in osteophyte  
 25          formation, and straightening of the cervical lordosis, and

26          WHEREAS, Dr. Fabio Fiore of Brandon Hospital operated on  
 27          Doretta Spurway's right shoulder on May 29, 1998, removing the  
 28          front lip of the acromion from the rotator cuff, and

29          WHEREAS, Doretta Spurway continued to suffer persistent  
 30          weakness in her right shoulder and posttraumatic cervical

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31 headaches resulting from the accident, and Dr. Fiore testified  
32 that the posttraumatic cervical headaches are permanent, and

33 WHEREAS, Dr. Fiore also testified that Doretta Spurway  
34 suffered a permanent injury to her shoulder in the accident,  
35 which was confirmed by magnetic resonance imaging, and that  
36 Doretta Spurway is a candidate for a future shoulder operation,  
37 and

38 WHEREAS, following her surgery, Doretta Spurway sought  
39 treatment from Dr. Luis Crespo, who performed a functional  
40 capacity evaluation that was introduced into evidence at trial,  
41 and

42 WHEREAS, Dr. Fiore testified that, within reasonable  
43 medical certainty, the cost of the future shoulder surgery will  
44 be \$20,000 and that Doretta Spurway will incur annual medical  
45 bills of \$5,000 to \$6,000 for medication, physical therapy, and  
46 treatment for her ongoing headaches and neck pain, and

47 WHEREAS, Dr. Crespo testified that, following surgery,  
48 Doretta Spurway developed atrophy and chronic swelling of the  
49 tissues in her shoulder and that Doretta Spurway will incur  
50 annual medical bills of \$2,000 to \$2,500 for treatment of the  
51 shoulder injury, excluding surgery, and

52 WHEREAS, before the accident, Doretta Spurway worked full  
53 time as a certified nursing assistant for over 30 years, work  
54 that involved caring for elderly patients who are unable to care  
55 for themselves, bathing patients, pushing patients in  
56 wheelchairs, and helping patients to walk, and

57 WHEREAS, before the accident, Doretta Spurway earned  
58 \$17,005 in 1997, and following the accident, her annual income  
59 dropped to \$7,172 in 1998, and Doretta Spurway has been unable  
60 to work since 1998 as a result of her injuries, and

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61 WHEREAS, Dr. Fiore testified that Doretta Spurway's  
 62 injuries prohibit her from working as a certified nursing  
 63 assistant, and Dr. Crespo, after conducting a functional  
 64 capacity evaluation, testified that Doretta Spurway has lost 60  
 65 to 70 percent of the range of motion in her right shoulder as a  
 66 result of the accident and further testified that Doretta  
 67 Spurway is unable to perform the full duties of a nursing  
 68 assistant, and

69 WHEREAS, Doretta Spurway has been unable to work for over 4  
 70 years, has had to sell her house, is living out of a car and  
 71 staying with friends and family, and currently has difficulty  
 72 paying for her necessary medications, and

73 WHEREAS, a jury determined that, as a result of the  
 74 accident, the amount of damages suffered by Doretta Spurway for  
 75 medical expenses, lost earnings, and loss of wage-earning  
 76 capacity is \$56,942.37, determined that the present value of  
 77 future medical care and treatment and lost wage-earning capacity  
 78 to be sustained in future years by Doretta Spurway is \$165,000,  
 79 and returned a verdict awarding a total amount of \$221,942.37 to  
 80 Doretta Spurway, and

81 WHEREAS, the Department of Highway Safety and Motor  
 82 Vehicles has paid \$100,000 pursuant to the statutory limits of  
 83 liability set forth in s. 768.28, Florida Statutes, leaving a  
 84 balance of \$121,942.37, NOW, THEREFORE,

85

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

87

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

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90           Section 2. The sum of \$121,942.37 is appropriated from the  
 91 General Revenue Fund to the Department of Highway Safety and  
 92 Motor Vehicles for the relief of Doretta Spurway for injuries  
 93 and damages sustained.

94           Section 3. The Chief Financial Officer is directed to draw  
 95 a warrant in favor of Doretta Spurway in the sum of \$121,942.37  
 96 upon funds of the Department of Highway Safety and Motor  
 97 Vehicles, and the Chief Financial Officer is directed to pay the  
 98 same out of funds in the State Treasury.

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