

By Senator Dean

3-00080-09

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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
4 sustained as result of the negligence of an employee
5 of the Department of Highway Safety and Motor
6 Vehicles; providing a limitation on the payment of
7 fees and costs; providing an effective date.

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

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

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

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

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

29 WHEREAS, Ms. Spurway continued to suffer persistent

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30 weakness in her right shoulder and posttraumatic cervical
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 Ms. Spurway suffered
34 a permanent injury to her shoulder in the accident, which was
35 confirmed by magnetic resonance imaging, and that Ms. Spurway is
36 a candidate for a future shoulder operation, and

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

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

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

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

56 WHEREAS, before the accident Ms. Spurway earned \$17,005 in
57 1997, and following the accident her annual income dropped to
58 \$7,172 in 1998, and Ms. Spurway has been unable to work since

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59 1998 as a result of her injuries, and

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

67 WHEREAS, Ms. Spurway has been unable to work for 10 years,
68 has had to sell her house, is living out of a car and staying
69 with friends and family, and currently has difficulty paying for
70 her necessary medications, and

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

79
80 Be It Enacted by the Legislature of the State of Florida:

81
82 Section 1. The facts stated in the preamble to this act are
83 found and declared to be true.

84 Section 2. The sum of \$221,942.37 is appropriated from the
85 General Revenue Fund to the Department of Highway Safety and
86 Motor Vehicles for the relief of Doretta Spurway for injuries
87 and damages sustained.

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88 Section 3. The Chief Financial Officer is directed to draw
89 a warrant in favor of Doretta Spurway in the sum of \$221,942.37
90 upon funds of the Department of Highway Safety and Motor
91 Vehicles, and the Chief Financial Officer is directed to pay the
92 same out of such funds in the State Treasury.

93 Section 4. This award is intended to provide the sole
94 compensation for all present and future claims arising out of
95 the factual situation described in this act which resulted in
96 the injuries sustained by Doretta Spurway. The total amount paid
97 for attorney's fees, lobbying fees, costs, and other similar
98 expenses relating to this claim may not exceed 25 percent of the
99 amount awarded under this act.

100 Section 5. This act shall take effect upon becoming a law.