

By Senator Latvala

16-00203-12

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1 A bill to be entitled
2 An act for the relief of Marianne Beauregard and the
3 Estate of Ronald Avallone by the Marion County
4 Sheriff's Office; providing for an appropriation to
5 compensate them for injuries sustained as the result
6 of the negligence of an employee of the Marion County
7 Sheriff's Office; providing a limitation on the
8 payment of fees and costs; providing an effective
9 date.

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11 WHEREAS, on November 30, 2005, Ronald Avallone, the late
12 husband of claimant Marianne Beauregard, was lawfully driving
13 his vehicle in a westerly direction on County Road 25 near
14 Bellevue, Florida, and

15 WHEREAS, at that same time and place Darius P. Medina, an
16 employee of the Marion County Sheriff's Office, was operating a
17 vehicle owned by and with the knowledge and consent of the
18 sheriff's office and was travelling east on County Road 25, and

19 WHEREAS, Darius Medina suddenly and negligently steered his
20 vehicle across the center line and entered into the path of
21 Ronald Avallone's lane of traffic and caused a violent, head-on
22 crash between the two vehicles, and

23 WHEREAS, as a direct result of the crash, Mr. Avallone
24 suffered multiple injuries, including fractures to his right
25 lower extremity, neck and back injuries, and a painful injury to
26 his right wrist, thereby necessitating many surgeries, including
27 a left knee replacement, and

28 WHEREAS, as a result of the crash, Mr. Avallone also
29 suffered from cognitive impairments, including memory lapses,

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30 sleep disturbances, chronic fatigue, posttraumatic stress
31 disorder, and depression, and

32 WHEREAS, the cost of the surgeries and medical care from
33 dozens of health care providers and rehabilitative facilities
34 that treated Mr. Avallone exceeded \$450,517.63, and

35 WHEREAS, despite the extensive medical care for his many
36 injuries, Mr. Avallone's health never returned to his pre-
37 accident condition, and due to the physical limitations,
38 immobility, and disabilities caused by the accident, his health
39 deteriorated, and

40 WHEREAS, on December 7, 2010, Mr. Avallone died as the
41 result of cardiac arrest, and his cardiologist specifically
42 attributed his injuries and postinjury deterioration as the
43 contributing cause to his death, and

44 WHEREAS, Marianne Beauregard, the wife of the decedent,
45 cared for her husband throughout the ordeal, witnessed and
46 endured his slow deterioration, and has been devastated by his
47 untimely death, and

48 WHEREAS, in August of 2006, the Avallones filed a lawsuit
49 against the Marion County Sheriff's Offices in the Fifth
50 Judicial Circuit in and for Marion County, Florida, as a result
51 of the negligence of one of the sheriff's office employees,
52 Darius P. Medina, and

53 WHEREAS, before the trial, the Marion County Sheriff's
54 Office admitted negligence and further admitted that Ronald
55 Avallone was lawfully operating his vehicle and that he was not
56 negligent in any manner, and

57 WHEREAS, on November 13, 2009, a Marion County jury
58 rendered a verdict in favor of the Avallones in the amount of

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59 \$2,735,000; however, that amount was reduced due to setoffs and
60 a stipulation by the plaintiffs to a reduction in the jury's
61 determination for costs of future medical care, and

62 WHEREAS, the sheriff's office appealed the final judgment
63 to the Fifth Circuit Court of Appeal, and on April 28, 2011, a
64 final judgment was entered in the amount of \$2,331,562.84, and

65 WHEREAS, the Marion County Sheriff's Office purchased
66 liability insurance coverage from the Preferred Governmental
67 Insurance Trust having a policy limit of up to \$1 million in
68 coverage, and

69 WHEREAS, the insurer refused to settle the case for an
70 amount within its policy limit, thereby exposing the sheriff's
71 office to a claim bill in excess of its insurance coverage, and

72 WHEREAS, the Marion County Sheriff's Office has paid
73 \$200,000 pursuant to s. 768.28, Florida Statutes, but its
74 insurer has refused to attempt to resolve this claim beyond what
75 the sheriff's office has paid, and

76 WHEREAS, the insurer has taken the position that it will
77 not pay the claim despite the merits of the case because the
78 policy provides that a claim bill must pass before the insurer
79 is obligated to make any payment and the insurer intends to
80 attempt to defeat the bill, and

81 WHEREAS, the surviving claimant, Marianne Beauregard, and
82 her late husband, Ronald Avallone, are totally innocent of any
83 negligence or wrongdoing in the tragedy that took the life of
84 Ronald Avallone and are deserving of fair compensation, NOW,
85 THEREFORE,

86

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

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

91 Section 2. The Marion County Sheriff's Office is authorized
92 and directed to appropriate from funds of the sheriff's office
93 not otherwise appropriated, including insurance, and to draw a
94 warrant in the sum of \$2,331,562.84, payable to Marianne
95 Beauregard and the Estate of Ronald Avallone, as compensation
96 for injuries and damages sustained due to the motor vehicle
97 collision that occurred on November 30, 2005.

98 Section 3. The amount paid by the Marion County Sheriff's
99 Office pursuant to s. 768.28, Florida Statutes, and the amount
100 awarded under this act are intended to provide the sole
101 compensation for all present and future claims arising out of
102 the factual situation described in this act which resulted in
103 the injuries to Ronald Avallone, his estate, and the claim for
104 loss of consortium and mental pain and suffering of Marianne
105 Beauregard. The total amount paid for attorney's fees, lobbying
106 fees, costs, and other similar expenses relating to this claim
107 may not exceed 25 percent of the amount awarded under this act.

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