

By Senator Simmons

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1 A bill to be entitled

2 An act for the relief of Erin Joynt by Volusia County;
3 providing for an appropriation to compensate Erin
4 Joynt for injuries sustained as a result of the
5 negligence of an employee of Volusia County; providing
6 that certain payments and the appropriation satisfy
7 all present and future claims related to the negligent
8 act; providing a limitation on the payment of
9 compensation, fees, and costs; providing an effective
10 date.

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12 WHEREAS, on July 31, 2011, Erin Joynt, her husband, and two
13 children were vacationing beachgoers on Daytona Beach as they
14 journeyed from their native Wichita, Kansas, to their planned
15 destination of Walt Disney World, and

16 WHEREAS, at the same time, in the regular course of his
17 employment duties, Thomas Moderie, an employee of the Volusia
18 County Beach Patrol, was driving a Ford F-150 pickup truck owned
19 by the county along the beach, and

20 WHEREAS, Mr. Moderie negligently operated the truck,
21 running over Mrs. Joynt while she was sunbathing on the beach,
22 and

23 WHEREAS, as a result of the impact with the truck, Mrs.
24 Joynt sustained severe injuries, including, but not limited to,
25 multiple cranial and facial fractures, rib fractures, permanent
26 facial injuries, and chronic back pain, and

27 WHEREAS, Mrs. Joynt continues to suffer as a result of the
28 impact and is unable to blink her right eye without the
29 assistance of a gold weight sewn into her eyelid and has a
30 perforated eardrum and resulting hearing loss, permanent facial
31 paralysis, speech and neurological deficits, and chronic pain,
32 and

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33 WHEREAS, after a 4-day trial in June 2014 at which Volusia
34 County acknowledged the negligence of Mr. Moderie, a jury found
35 the county liable for Mrs. Joynt's injuries and awarded her
36 compensatory damages in the amount of \$2.6 million, and

37 WHEREAS, on January 12, 2016, following resolution of an
38 appeal initiated by the county, a final judgment in the amount
39 of \$2 million was entered against Volusia County by the trial
40 court, and

41 WHEREAS, Volusia County is insured for Mrs. Joynt's claim
42 for damages through an excess liability insurance policy
43 underwritten by Star Insurance Company, which has refused to
44 compensate Mrs. Joynt and maintains that its duty to indemnify
45 the county is not imposed until passage of this claim bill, and

46 WHEREAS, Volusia County has already paid \$100,000 of the
47 judgment pursuant to the statutory limits of liability set forth
48 in s. 768.28, Florida Statutes, which were in effect at the time
49 that Mrs. Joynt's claim arose, and

50 WHEREAS, Volusia County has agreed to support the passage
51 of a claim bill to ensure that the remainder of the judgment is
52 satisfied, NOW, THEREFORE,

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

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

58 Section 2. Volusia County is authorized and directed to
59 appropriate from funds of the county not otherwise encumbered,
60 or from the county's liability insurance coverage, and to draw a
61 warrant in the sum of \$1.9 million, payable to Erin Joynt as

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62 compensation for injuries and damages sustained.

63 Section 3. The amount paid by Volusia County pursuant to s.
64 768.28, Florida Statutes, and the amount awarded under this act
65 are intended to provide the sole compensation for all present
66 and future claims arising out of the factual situation described
67 in this act which resulted in injuries and damages to Erin
68 Joynt. The total amount paid for attorney fees, lobbying fees,
69 costs, and similar expenses relating to this claim may not
70 exceed 25 percent of the amount awarded under this act.

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