



807320

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2017	.	
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The Committee on Judiciary (Torres) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

Section 2. Orange County is authorized and directed to  
appropriate from funds not otherwise encumbered and to draw a  
warrant in the sum of \$2,813,536.09 payable to Robert Allan  
Smith as compensation for injuries and damages sustained as a  
result of the negligence of an employee of Orange County.



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12           Section 3. The governmental entity responsible for payment  
13 of the warrant shall pay to the Agency for Health Care  
14 Administration the amount due under s. 409.910, Florida  
15 Statutes, before disbursing any funds to the claimant. The  
16 amount due to the agency shall be equal to all unreimbursed  
17 medical payments paid by Medicaid up to the date upon which this  
18 act becomes a law.

19           Section 4. The amount paid by Orange County pursuant to s.  
20 768.28, Florida Statutes, and the amount awarded under this act  
21 are intended to provide the sole compensation for all present  
22 and future claims arising out of the factual situation described  
23 in this act which resulted in injuries and damages to Robert  
24 Allan Smith. The total amount of attorney fees relating to this  
25 claim may not exceed 25 percent of the amount awarded under this  
26 act.

27           Section 5. This act shall take effect upon becoming a law.  
28

29 ===== T I T L E   A M E N D M E N T =====

30 And the title is amended as follows:

31           Delete everything before the enacting clause  
32 and insert:

33                                   A bill to be entitled  
34           An act for the relief of Robert Allan Smith by Orange  
35           County; providing for an appropriation to compensate  
36           him for injuries sustained as a result of the  
37           negligence of an employee of Orange County; providing  
38           for repayment of Medicaid liens; providing a  
39           limitation on the payment of fees and costs; providing  
40           an effective date.



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41  
42 WHEREAS, at 1:43 p.m. on September 7, 2006, Robert Allan  
43 Smith was driving his motorcycle north on DePauw Avenue in  
44 Orlando, the quiet residential street he lived on, within 300  
45 feet of his home, within the 25 mph posted speed limit, and with  
46 headlights on in clear, dry weather, and

47 WHEREAS, as Robert Allan Smith approached the intersection  
48 of DePauw Avenue and Orlando Street, at which stop signs are  
49 posted for vehicles traveling on Orlando Street, an Orange  
50 County work van driven by Orange County employee Lynn Lawrence  
51 Godden, which was traveling west on Orlando Street, negligently  
52 pulled away from the stop sign, colliding with Mr. Smith, and

53 WHEREAS, Robert Allan Smith said that he saw the driver of  
54 the Orange County van visibly slow down as he approached the  
55 stop sign, having observed Mr. Smith approaching on his  
56 motorcycle, but that the driver drove through the stop sign and  
57 into Mr. Smith's path and Mr. Smith was unable to avoid a  
58 collision, and

59 WHEREAS, the front of the Orange County van struck Robert  
60 Allan Smith, causing severe and life-threatening injuries and  
61 necessitating surgical procedures, including a traumatic  
62 amputation of his right leg above his knee, and

63 WHEREAS, Robert Allan Smith also suffered a badly fractured  
64 lower left leg with internal fixation, a broken pelvis and  
65 sacrum with internal fixation, and damage to the rectum and  
66 internal organs, which required a laparotomy, and

67 WHEREAS, the Orange County employee testified that he  
68 observed Robert Allan Smith's motorcycle as he approached the  
69 intersection, but he erroneously believed that it was heading



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70 away from him, though there was no evidence to support this  
71 claim, and that he was looking to his right, away from Mr.  
72 Smith, when he entered the intersection, and

73 WHEREAS, the Orange County employee was issued a citation  
74 by the Orlando Police Department for failure to yield from a  
75 stop sign, and

76 WHEREAS, after finding for Robert Allan Smith and against  
77 Orange County in a civil jury trial, the jury in the case  
78 determined that Mr. Smith's future medical expenses totaled  
79 \$2.376 million over 40 years and that his past medical expenses  
80 and lost wages totaled \$688,807.37, and awarded him \$1,749,978  
81 in damages for past and future pain and suffering, for a total  
82 award of \$4,814,785.37, and

83 WHEREAS, after the total award was reduced by amounts for  
84 comparative negligence and Medicaid and Veteran's Administration  
85 setoffs, a final judgment was entered against Orange County on  
86 November 27, 2012, in the amount of \$2,913,536.09, and

87 WHEREAS, Orange County has paid Robert Allan Smith \$100,000  
88 pursuant to the statutory limits of liability set forth in s.  
89 768.28, Florida Statutes, which were in effect at the time that  
90 Mr. Smith's claim arose, leaving a remaining unpaid balance of  
91 \$2,813,536.09, NOW, THEREFORE,