

By the Committee on Judiciary; and Senator Torres

590-02675-17

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1 A bill to be entitled
2 An act for the relief of Robert Allan Smith by Orange
3 County; providing for an appropriation to compensate
4 him for injuries sustained as a result of the
5 negligence of an employee of Orange County; providing
6 for repayment of Medicaid liens; providing a
7 limitation on the payment of fees; providing an
8 effective date.

9
10 WHEREAS, at 1:43 p.m. on September 7, 2006, Robert Allan
11 Smith was driving his motorcycle north on DePauw Avenue in
12 Orlando, the quiet residential street he lived on, within 300
13 feet of his home, within the 25 mph posted speed limit, and with
14 headlights on in clear, dry weather, and

15 WHEREAS, as Robert Allan Smith approached the intersection
16 of DePauw Avenue and Orlando Street, at which stop signs are
17 posted for vehicles traveling on Orlando Street, an Orange
18 County work van driven by Orange County employee Lynn Lawrence
19 Godden, which was traveling west on Orlando Street, negligently
20 pulled away from the stop sign, colliding with Mr. Smith, and

21 WHEREAS, Robert Allan Smith said that he saw the driver of
22 the Orange County van visibly slow down as he approached the
23 stop sign, having observed Mr. Smith approaching on his
24 motorcycle, but that the driver drove through the stop sign and
25 into Mr. Smith's path and Mr. Smith was unable to avoid a
26 collision, and

27 WHEREAS, the front of the Orange County van struck Robert
28 Allan Smith, causing severe and life-threatening injuries and
29 necessitating surgical procedures, including a traumatic

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30 amputation of his right leg above his knee, and

31 WHEREAS, Robert Allan Smith also suffered a badly fractured
32 lower left leg with internal fixation, a broken pelvis and
33 sacrum with internal fixation, and damage to the rectum and
34 internal organs, which required a laparotomy, and

35 WHEREAS, the Orange County employee testified that he
36 observed Robert Allan Smith's motorcycle as he approached the
37 intersection, but he erroneously believed that it was heading
38 away from him, though there was no evidence to support this
39 claim, and that he was looking to his right, away from Mr.
40 Smith, when he entered the intersection, and

41 WHEREAS, the Orange County employee was issued a citation
42 by the Orlando Police Department for failure to yield from a
43 stop sign, and

44 WHEREAS, after finding for Robert Allan Smith and against
45 Orange County in a civil jury trial, the jury in the case
46 determined that Mr. Smith's future medical expenses totaled
47 \$2.376 million over 40 years and that his past medical expenses
48 and lost wages totaled \$688,807.37, and awarded him \$1,749,978
49 in damages for past and future pain and suffering, for a total
50 award of \$4,814,785.37, and

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

55 WHEREAS, Orange County has paid Robert Allan Smith \$100,000
56 pursuant to the statutory limits of liability set forth in s.
57 768.28, Florida Statutes, which were in effect at the time that
58 Mr. Smith's claim arose, leaving a remaining unpaid balance of

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59 \$2,813,536.09, NOW, THEREFORE,

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

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

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

70 Section 3. The governmental entity responsible for payment
71 of the warrant shall pay to the Agency for Health Care
72 Administration the amount due under s. 409.910, Florida
73 Statutes, before disbursing any funds to the claimant. The
74 amount due to the agency shall be equal to all unreimbursed
75 medical payments paid by Medicaid up to the date upon which this
76 act becomes a law.

77 Section 4. The amount paid by Orange County pursuant to s.
78 768.28, Florida Statutes, and the amount awarded under this act
79 are intended to provide the sole compensation for all present
80 and future claims arising out of the factual situation described
81 in this act which resulted in injuries and damages to Robert
82 Allan Smith. The total amount of attorney fees relating to this
83 claim may not exceed 25 percent of the amount awarded under this
84 act.

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