

By the Committee on Judiciary; and Senator Mayfield

590-01999-18

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1 A bill to be entitled
2 An act for the relief of Cathleen Smiley by Brevard
3 County; providing for an appropriation to compensate
4 Cathleen Smiley for personal injuries and damages
5 sustained in an automobile accident caused by a
6 Brevard County employee; providing for payment by
7 Brevard County; providing a limitation on the payment
8 of compensation and attorney fees; providing an
9 effective date.

10
11 WHEREAS, on June 18, 1998, Cathleen Smiley was the driver
12 of her vehicle when it was struck in the rear section by a van
13 driven by Howard Evarts which had been struck in the rear
14 section by a passenger bus owned by the Brevard County Board of
15 County Commissioners, and

16 WHEREAS, the Brevard County employee operating the bus was
17 traveling at approximately 45 miles per hour when the bus hit
18 the vehicle in which Mr. Evarts was traveling, causing Mr.
19 Evarts' vehicle to hit Ms. Smiley's vehicle, and

20 WHEREAS, the vehicles which Ms. Smiley and Mr. Evarts were
21 operating were appropriately stopped in their lane of travel
22 waiting to make a left turn, and

23 WHEREAS, at the time of the accident, Ms. Smiley was
24 without personal resources for medical insurance, other than
25 nominal personal injury protection, to adequately care for the
26 injuries she suffered as a result of the accident, and

27 WHEREAS, Ms. Smiley was knocked unconscious and suffered
28 permanent injuries to the neck and left shoulder, and

29 WHEREAS, Christopher Prusinski, D.O., a neurologist in

590-01999-18

201852c1

30 Brevard County, has opined that Ms. Smiley has reached maximum
31 medical improvement and has an 8 percent whole body impairment
32 due to the accident, and

33 WHEREAS, Dr. Prusinski also has opined that Ms. Smiley will
34 require extensive future chiropractic care and treatment, and

35 WHEREAS, since the accident Ms. Smiley has required
36 continuing care and treatment, and it is anticipated that she
37 will require ongoing care in the future, including chiropractic
38 treatment and periodic medical intervention and diagnostic
39 testing, and

40 WHEREAS, on January 25, 2016, a consent judgment was
41 entered after Ms. Smiley and Brevard County agreed to a
42 stipulated judgment in the amount of \$25,000 in case number 05-
43 2000-CA-004291-XXXX-XX, and

44 WHEREAS, Ms. Smiley is one of five persons who filed
45 lawsuits related to the accident, and

46 WHEREAS, at the time Ms. Smiley filed her lawsuit, on or
47 about February 29, 2000, Brevard County had already paid
48 property damage, medical, and injury claims totaling \$101,410.
49 Additionally, the county was evaluating two additional related
50 personal injury lawsuits, and

51 WHEREAS, after these property damage, medical, and injury
52 claims were settled, only \$98,590 remained to resolve the other
53 claims filed in connection with the accident, and

54 WHEREAS, Howard and Sharon Evarts and Alan Hammer filed
55 their lawsuits against Brevard County on June 24, 1999, and

56 WHEREAS, consent judgments were entered by the Circuit
57 Court for the 18th Judicial Circuit in Brevard County on
58 November 30, 2000, pursuant to an agreement entered into by

590-01999-18

201852c1

59 plaintiffs Evarts and Hammer and Brevard County for stipulated
60 judgments in case numbers 05-1999-CA-025509-XXXX-XX (Evarts) and
61 05-1999-CA025510-XXXX-XX (Hammer), each in the amount \$125,000,
62 and

63 WHEREAS, Mr. Evarts and Mr. Hammer each received \$49,295
64 out of the remaining balance of \$98,590 of the county's \$200,000
65 sovereign immunity limitation and, pursuant to their settlement
66 agreements with Brevard County, received the balance of their
67 judgments through the claim bill process as articulated in
68 chapter 2003-346, Laws of Florida, and chapter 2003-345, Laws of
69 Florida, respectively, and

70 WHEREAS, Brevard County and Ms. Smiley agreed that she
71 would pursue payment of the stipulated judgment due her in the
72 amount of \$25,000 from the county through the claim bill
73 process, and

74 WHEREAS, Brevard County has agreed that it would not oppose
75 a claim bill being rendered against the county in this matter
76 and would support same, NOW, THEREFORE,

77
78 Be It Enacted by the Legislature of the State of Florida:

79
80 Section 1. The facts stated in the preamble to this act are
81 found and declared to be true.

82 Section 2. Brevard County is authorized and directed to
83 appropriate from funds of the county not otherwise appropriated
84 and to draw a warrant in the sum of \$25,000 payable to Cathleen
85 Smiley, now known as Cathleen Waller, to compensate her for
86 personal injuries and damages sustained.

87 Section 3. The amount paid by Brevard County pursuant to s.

590-01999-18

201852c1

88 768.28, Florida Statutes, and the amount awarded under this act
89 are intended to provide the sole compensation for all present
90 and future claims arising out of the factual situation described
91 in this act which resulted in injuries and damages to Cathleen
92 Smiley. The total amount paid for attorney fees relating to this
93 claim may not exceed 25 percent of the amount awarded under this
94 act.

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