

By Senator Book

32-00709C-19

20191680\_\_

1                   A bill to be entitled  
2       An act relating to the Marjory Stoneman Douglas High  
3       School Victim Family Compensation Fund Program;  
4       creating s. 1010.882, F.S.; creating the Marjory  
5       Stoneman Douglas High School Victim Family  
6       Compensation Fund Program within the Department of  
7       Education; defining terms; providing legislative  
8       intent; requiring the department to accept and process  
9       applications for certain payments; providing  
10      requirements for such applications; requiring the  
11      department to verify specified information before  
12      approving an application; prohibiting the department  
13      from paying an applicant until specified requirements  
14      are satisfied; providing for disbursement of funds;  
15      authorizing the department to adopt rules; providing  
16      construction; providing a contingent effective date.

17  
18       WHEREAS, on February 14, 2018, a mass shooting occurred in  
19      the 1200 Building at Marjory Stoneman Douglas High School,  
20      killing 17 people and injuring 17 others, and

21       WHEREAS, multiple failures at various levels of government  
22      and private sector services tragically culminated in this mass  
23      shooting and contributed to its magnitude, and

24       WHEREAS, these failures were both personal and systemic and  
25      included deficiencies in the development and implementation of  
26      strategies and concepts required in this modern age to provide a  
27      safe and secure learning and working environment for the  
28      students and staff of public schools across Florida, and

29       WHEREAS, among other things, the shooting was caused by

32-00709C-19

20191680\_\_

30 failures in mental and behavioral health services; on-campus  
31 security measures such as identification, ingress and egress,  
32 security personnel, communication, and surveillance systems; 911  
33 and radio communication systems; training and equipping of law  
34 enforcement for active assailant scenarios; command and control  
35 strategies for active assailant scenarios; and information-  
36 sharing between law enforcement agencies, and

37 WHEREAS, the Legislature acknowledges that accountability  
38 for the failures that caused the massacre of February 14, 2018,  
39 is required to prevent a similar tragedy from occurring in the  
40 future, and that a necessary component of such accountability is  
41 compensation for the victims of this tragedy and their families,  
42 and

43 WHEREAS, the victims of the shooting who were killed or  
44 injured may assert or have already asserted claims against the  
45 State of Florida, its agencies or subdivisions for damages  
46 arising out of the shooting, and

47 WHEREAS, the Legislature recognizes that the victims or the  
48 survivors of those killed in the Marjory Stoneman Douglas High  
49 School shooting would be required to litigate such claims and  
50 obtain a judgment or settlement before any entitlement to  
51 recovery, and

52 WHEREAS, such claims would be subject to the limitations of  
53 section 768.28, Florida Statutes, including the limitation  
54 restricting liability for payment of claims or judgments, when  
55 totaled together, to \$300,000 per occurrence or incidence, and  
56 subjecting claims or judgments above that amount to the approval  
57 of the Legislature, and

58 WHEREAS, the Legislature is vested with the sole

32-00709C-19

20191680\_\_

59 constitutional authority to approve claims that exceed the  
60 statutory waiver limits of sovereign immunity in section 768.28,  
61 Florida Statutes, and the sole constitutional authority to  
62 approve payment of claims, and

63 WHEREAS, it is the intent of the Legislature to provide an  
64 alternative to litigation and the claim bill process which would  
65 provide reasonable compensation for the victims killed or  
66 injured in the Marjory Stoneman Douglas High School shooting, as  
67 well as their survivors and family members, in exchange for a  
68 voluntary release of this state, its agencies, and subdivisions,  
69 as to claims arising out of the February 14, 2018, mass shooting  
70 at Marjory Stoneman Douglas High School, NOW, THEREFORE,

71  
72 Be It Enacted by the Legislature of the State of Florida:

73  
74 Section 1. Section 1010.882, Florida Statutes, is created  
75 to read:

76 1010.882 Marjory Stoneman Douglas High School Victim Family  
77 Compensation Fund Program.—

78 (1) There is created within the department the Marjory  
79 Stoneman Douglas High School Victim Family Compensation Fund  
80 Program for the family members of victims of the shooting at  
81 Marjory Stoneman Douglas High School on February 14, 2018.

82 (2) As used in this section, the term:

83 (a) "Claim" means all the causes of action that have been  
84 or may be asserted by a victim and any claim of wrongful death,  
85 loss of consortium, or any other claim for damages by a family  
86 member of a victim arising out of the victim's death or injury.

87 (b) "Department" means the Florida Department of Education.

32-00709C-19

20191680\_\_

88 (c) "Event" means the mass shooting that occurred at  
89 Marjory Stoneman Douglas High School on February 14, 2018.

90 (d) "Marjory Stoneman Douglas High School" means the high  
91 school located at 5901 Pine Island Road in the City of Parkland  
92 located in Broward County.

93 (e) "Victim" means any individual who was killed during or  
94 as a direct result of the event.

95 (3) It is the intent of the Legislature to provide a  
96 streamlined process for the presentation of and payment of each  
97 claim when the claimant agrees to forgo litigation and the claim  
98 bill process and to release the state and its political  
99 subdivisions from any and all claims arising out of the event.

100 (4) The department shall accept and process applications  
101 for payment of claims pursuant to this section.

102 (5) Applications must be on forms approved by the  
103 department and must include all of the following:

104 (a) The name of the victim.

105 (b) The names of all family members who have or may have  
106 claims for wrongful death, loss of consortium, or any other  
107 claim for damages arising out of the victim's death or injury.

108 (c) A statement agreeing to forgo litigation or dismiss  
109 pending litigation, to agree not to seek a claim bill from the  
110 Legislature, and to execute the release described in subsection

111 (7) in exchange for payment of the claim as set forth in  
112 subsection (8).

113 (d) The signature of all family members described in  
114 paragraph (b), or for such persons who are younger than 18 years  
115 of age, the signature of their parents or guardians.

116 (6) Before approving any application for payment, the

32-00709C-19

20191680\_\_

117 department shall verify all of the following:

118 (a) The identity of the victim.

119 (b) The victim's entitlement to recovery under subsection  
120 (8).

121 (c) The identity of each of the family members described in  
122 paragraph (5)(b), and that all persons have been disclosed who  
123 have or may have claims for damages arising out of the victim's  
124 death or injury.

125 (7) The department may not pay an applicant until the  
126 person who may assert a claim on behalf of a victim and all  
127 persons who may assert a claim arising out of the death of a  
128 victim under this section, have signed an unqualified release of  
129 all claims for the damages, costs, and expenses, including  
130 attorney fees of any type, or relief of any other kind,  
131 resulting from the event. The release must be on a form approved  
132 by the department.

133 (8) Funds from the Marjory Stoneman Douglas High School  
134 Victim Trust Fund pursuant to s. 1010.88 shall be disbursed in  
135 accordance with this section. Any such funds must be disbursed  
136 evenly among the family members of the victim.

137 (9) The department may adopt rules to administer this  
138 section.

139 (10) Payments made under this section are not subject to s.  
140 744.387.

141 (11) This section provides the exclusive means of  
142 compensation for families who opt to receive payments as  
143 authorized pursuant to this section. No compensation under this  
144 section is authorized for families who refuse to accept or fail  
145 to comply with the terms of this section.

32-00709C-19

20191680\_\_

146       (12) Nothing in this section shall be deemed an admission  
147 of fact or an admission of liability on the part of the state or  
148 its political subdivisions.

149       (13) Notwithstanding the relief provided above the limits  
150 of sovereign immunity provided in s. 768.28, the state and its  
151 political subdivisions may not be deemed to have waived any  
152 defense of sovereign immunity or to have increased the limits of  
153 its liability as a result of passage of this act.

154       Section 2. This act shall take effect on the same date that  
155 SB \_\_\_ or similar legislation takes effect, if such legislation  
156 is adopted in the same legislative session or an extension  
157 thereof and becomes a law.