

By Senator Book

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1 A bill to be entitled
2 An act relating to the Marjory Stoneman Douglas High
3 School Victim Compensation Fund Program; creating s.
4 1010.881, F.S.; creating the Marjory Stoneman Douglas
5 High School Victim Compensation Fund Program within
6 the Department of Education; defining terms; providing
7 legislative intent; requiring the department to accept
8 and process applications for certain payments;
9 providing requirements for such applications;
10 requiring the department to verify specified
11 information before approval of an application;
12 prohibiting the department from paying an applicant
13 until specified requirements are satisfied; providing
14 for disbursement of funds; requiring the Attorney General
15 to develop a formula for distribution of funds to
16 specified individuals; requiring the department to use
17 the formula; authorizing the department to adopt
18 rules; providing construction; providing a contingent
19 effective date.

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21 WHEREAS, on February 14, 2018, a mass shooting occurred in
22 the 1200 Building at Marjory Stoneman Douglas High School, in
23 which 17 people were killed and 17 others were injured, and

24 WHEREAS, the victims of the shooting who were killed or
25 injured, or who were present on campus during the shooting may
26 assert claims against the state and its political subdivisions
27 for injuries arising out of the shooting, and

28 WHEREAS, the Legislature recognizes that the victims or the
29 survivors of those killed in the Marjory Stoneman Douglas High

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30 School shooting will be required to litigate any such claims and
31 obtain a judgment or settlement before any entitlement to
32 recovery, and

33 WHEREAS, such claims would be subject to the limitations of
34 s. 768.28, Florida Statutes, including the limitation
35 restricting liability for payment of claims or judgments, when
36 totaled together, to \$300,000 per occurrence or incidence, and
37 requiring that claims or judgments above that amount be approved
38 by the Legislature, and

39 WHEREAS, the Legislature is vested with the sole
40 constitutional authority to approve claims that exceed the
41 statutory waiver limits of sovereign immunity in s. 768.28,
42 Florida Statutes, and the sole constitutional authority to
43 approve payment of claims, and

44 WHEREAS, it is the intent of the Legislature to provide an
45 alternative to litigation and the claim bill process which will
46 provide reasonable compensation to the survivors of the victims
47 killed in, and to those injured in or suffering from emotional
48 distress as a result of, the Marjory Stoneman Douglas High
49 School shooting in exchange for a voluntary release of any and
50 all claims arising out of the February 14, 2018, mass shooting
51 at Marjory Stoneman Douglas High School, NOW, THEREFORE,

52
53 Be It Enacted by the Legislature of the State of Florida:

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55 Section 1. Section 1010.881, Florida Statutes, is created
56 to read:

57 1010.881 Marjory Stoneman Douglas High School Victim
58 Compensation Fund Program.-

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59 (1) There is created within the department the Marjory
60 Stoneman Douglas High School Victim Compensation Fund Program
61 for the victims of the shooting at Marjory Stoneman Douglas High
62 School on February 14, 2018.

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

64 (a) "Claim" means all the causes of action that have been
65 or may be asserted by a victim and any claim of loss of
66 consortium or any other claim for damages by a survivor or
67 family member of a victim arising out of the victim's death or
68 injury.

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

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

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

75 (e) "Survivor" means a victim's spouse, children, parents,
76 and, when partly or wholly dependent on the victim for support
77 or services, any blood relatives and adoptive brothers and
78 sisters.

79 (f) "Victim" means any individual who was shot and wounded
80 during the event.

81 (3) It is the intent of the Legislature to provide a
82 streamlined process for the presentation of and payment of each
83 claim when the claimant agrees to forgo litigation and the claim
84 bill process and to release the state and its political
85 subdivisions from any and all claims arising out of the event.

86 (4) The department shall accept and process applications
87 for payment of claims made pursuant to this section.

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

90 (a) The name of the victim.

91 (b) Whether the victim was:

92 1. Shot, injured, and received outpatient treatment; or

93 2. Shot, injured, and hospitalized.

94 (c) The names of all survivors who have or may have claims
95 for loss of consortium or any other claim for damages arising
96 out of the victim's injury.

97 (d) A statement agreeing to forgo litigation or dismiss
98 pending litigation, to agree not to seek a claim bill from the
99 Legislature, and to execute the release described in subsection
100 (7) in exchange for payment of the claim as set forth in
101 subsection (8).

102 (e) The signature of the victim, if the victim is 18 years
103 of age or older, or the signature of the victim's parent or
104 guardian, if the victim is younger than 18 years of age.

105 (f) The signature of all survivors or family members
106 described in paragraph (c), or for such persons who are younger
107 than 18 years of age, the signature of their parents or
108 guardians.

109 (6) Before approving any application for payment, the
110 department shall verify all of the following:

111 (a) The identity of the victim.

112 (b) The victim's entitlement to recovery under subsection
113 (8).

114 (c) The identity of each of the survivors or family members
115 described in paragraph (5)(c) and that all persons have been
116 disclosed who have or may have claims for damages arising out of

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117 the victim's injury.

118 (7) The department may not pay an applicant until the
119 victim, or the person who may assert a claim on behalf of a
120 victim, and all persons who may assert a claim arising out of
121 the injury to a victim under this section, have signed an
122 unqualified release of all claims for the damages, costs, and
123 expenses, including attorney fees of any type, or relief of any
124 other kind, resulting from the event. The release must be on a
125 form approved by the department.

126 (8) Funds from the Marjory Stoneman Douglas Victim Trust
127 Fund pursuant to s. 1010.88 shall be disbursed in accordance
128 with this section. The Attorney General shall develop a formula
129 to be used by the department in the distribution of funds to
130 victims and family members of the victims who are entitled to
131 recovery.

132 (9) The department may adopt rules to administer this
133 section.

134 (10) Payments made under this section are not subject to s.
135 744.387.

136 (11) This section provides the exclusive means of
137 compensation for victims and their families who opt to receive
138 payments as authorized pursuant to this section. No compensation
139 under this section is authorized for victims and their families
140 who refuse to accept or fail to comply with the terms of this
141 section.

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

145 (13) Notwithstanding the relief provided above the limits

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146 of sovereign immunity provided in s. 768.28, the state and its
147 political subdivisions may not be deemed to have waived any
148 defense of sovereign immunity or to have increased the limits of
149 its liability as a result of passage of this act.

150 Section 2. This act shall take effect on the same date that
151 SB ___ or similar legislation takes effect, if such legislation
152 is adopted in the same legislative session or an extension
153 thereof and becomes a law.