

By the Committee on Judiciary; and Senator Taddeo

590-02874-19

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1 A bill to be entitled

2 An act for the relief of Jorge L. Dominguez, Chelsea
3 Beatrice Dominguez, Brittney Delores Dominguez, and
4 Tori Alexis Dominguez by Hillsborough County;
5 providing for an appropriation to compensate them for
6 the wrongful death of Darcia Lynn Dominguez, which
7 occurred as the result of the negligence of
8 Hillsborough County and one of its employees;
9 providing a limitation on the payment of compensation
10 and attorney fees; providing an effective date.

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12 WHEREAS, on February 6, 2010, Darcia Lynn Dominguez, a 39-
13 year-old licensed registered nurse, was driving northbound on
14 Veterans Expressway in Tampa, and

15 WHEREAS, on the morning in question, Santiago Hasbun, an
16 employee of Hillsborough County, acting in the regular course
17 and scope of his employment duties and with the express consent
18 of Hillsborough County, was operating a tractor-trailer owned by
19 Hillsborough County northbound on Veterans Expressway, and

20 WHEREAS, Mr. Hasbun negligently operated the tractor-
21 trailer when he failed to remove the vehicle from the traveled
22 portion of the highway despite a warning from the vehicle
23 management and control system of impending engine failure, which
24 warning continued for a period of at least 15 minutes before the
25 engine shut down, and despite the availability of a 24-foot to
26 37-foot grass median onto to which he could have traveled and
27 parked the tractor-trailer, and

28 WHEREAS, Mr. Hasbun violated Florida law by failing to
29 timely exit the tractor-trailer or to remove it from the

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30 traveled portion of the roadway prior to the engine breakdown
31 and, thereafter, by failing to warn approaching motorists of the
32 hazard posed by the vehicle by not placing statutorily required
33 emergency triangles or cones in the proper location at the rear
34 of the vehicle, the purpose of such placement being to apprise
35 approaching motorists of the hazard at a sufficient distance to
36 allow them to stop or take evasive action, and

37 WHEREAS, Hillsborough County, through its Fleet Management
38 Department, was negligent in its servicing and maintenance of
39 the tractor-trailer driven by Mr. Hasbun, which resulted in an
40 electrical failure, which prevented the operation of the
41 tractor-trailer's emergency flashing lights, and

42 WHEREAS, the combined negligence of Hillsborough County and
43 its employee, Mr. Hasbun, proximately caused Ms. Dominguez to
44 crash into the back of the tractor-trailer, which had come to a
45 complete stop on the traveled portion of the roadway, and

46 WHEREAS, at the time of her death as a result of the crash,
47 Ms. Dominguez was the spouse of Jorge L. Dominguez and the
48 mother of their three daughters, Tori Alexis Dominguez, then 10
49 years of age; Brittney Delores Dominguez, then 16 years of age;
50 and Chelsea Beatrice Dominguez, then 18 years of age, and

51 WHEREAS, in accordance with the Wrongful Death Act, Mr.
52 Dominguez commenced a legal action against Hillsborough County
53 in Tampa on behalf of the Estate of Darcia Lynn Dominguez and
54 her surviving spouse and daughters, and

55 WHEREAS, after years of litigation, Hillsborough County on
56 December 13, 2016, acknowledged its negligence and that of its
57 employee and entered into a consent judgment for \$600,000, of
58 which Hillsborough County has paid its sovereign immunity limit

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59 of \$200,000, and

60 WHEREAS, in a separate, confidential settlement, the
61 county's excess insurance carrier, Star Insurance Company, paid
62 an additional, confidential amount to the plaintiff and, by
63 virtue of the consent judgment and the settlement agreement
64 reached between the parties, Hillsborough County has agreed that
65 it is liable to the Estate of Darcia Lynn Dominguez for an
66 additional \$400,000 in damages, to be paid in two equal
67 installments over the course of 2 years, with the first \$200,000
68 payment to be made during the October following the effective
69 date of this act, and the second \$200,000 payment to be made
70 during October of the immediately following year, and

71 WHEREAS, Hillsborough County has acknowledged that a
72 reasonable estimate of the damages recoverable for the four
73 statutory survivors of Ms. Dominguez is between \$4 million and
74 \$8 million and forensic estimates of her lifetime earnings,
75 recoverable as damages for loss of net accumulations to her
76 estate, amounted to an additional \$1.7 million, and

77 WHEREAS, Hillsborough County consents to and fully supports
78 the passage of this act, NOW, THEREFORE,

79
80 Be It Enacted by the Legislature of the State of Florida:

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

84 Section 2. Hillsborough County is authorized and directed
85 to appropriate from funds not otherwise encumbered and to draw
86 two warrants in the sum of \$200,000 each, payable to the Estate
87 of Darcia Lynn Dominguez. The first \$200,000 shall be paid

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88 during the October following the effective date of this act, and
89 the second \$200,000 shall be paid during October of the
90 immediately following year.

91 Section 3. The amount paid by Hillsborough County pursuant
92 to s. 768.28, Florida Statutes, and the amount awarded under
93 this act are intended to provide the sole compensation for all
94 present and future claims arising out of the factual situation
95 described in this act which resulted in the death of Darcia Lynn
96 Dominguez. The total amount paid for attorney fees relating to
97 this claim may not exceed 25 percent of the amount awarded under
98 this act.

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