

ENROLLED

CS/HB 6517

2019 Legislature

1
2 An act for the relief of Robert Allan Smith by Orange
3 County; providing for an appropriation to compensate
4 Mr. Smith for injuries and damages he sustained as a
5 result of the negligence of an employee of Orange
6 County; providing legislative intent regarding lien
7 interests held by the state; providing a limitation on
8 the payment of fees and costs; providing an effective
9 date.

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

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

22 WHEREAS, Mr. Smith said he saw the driver of the Orange
23 County van visibly slow down as he approached the stop sign,
24 having observed Mr. Smith approaching on his motorcycle, but
25 that the driver drove through the stop sign and into Mr. Smith's

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26 | path and Mr. Smith was unable to avoid a collision, and
27 | WHEREAS, the front of the Orange County van struck Mr.
28 | Smith, causing severe and life-threatening injuries and
29 | necessitating surgical procedures, including a traumatic
30 | amputation of his right leg above his knee, and

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

35 | WHEREAS, the Orange County employee testified that he
36 | observed Mr. Smith's motorcycle as he approached the
37 | intersection, but he erroneously believed that it was heading
38 | away from him, although 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 Mr. Smith and against Orange
45 | County in a civil jury trial, the jury in the case determined
46 | that Mr. Smith's future medical expenses totaled \$2.376 million
47 | over 40 years and that his past medical expenses and lost wages
48 | totaled \$688,807.37, and awarded him \$1,749,978 in damages for
49 | past and future pain and suffering, for a total award of
50 | \$4,814,785.37, and

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51 WHEREAS, after the total award was reduced by amounts for
 52 comparative negligence and Medicaid and Veterans 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 Mr. Smith \$100,000 pursuant
 56 to the statutory limits of liability set forth in s. 768.28,
 57 Florida Statutes, which were in effect at the time Mr. Smith's
 58 claim arose, leaving a remaining unpaid balance of
 59 \$2,813,536.09, NOW, THEREFORE,

60

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

62

63 Section 1. The facts stated in the preamble to this act
 64 are 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 \$750,000 payable to Robert Allan Smith as
 68 compensation for injuries and damages he sustained as a result
 69 of the negligence of an employee of Orange County.

70 Section 3. It is the intent of the Legislature that the
 71 lien interests of the state relating to the claim of Robert
 72 Allan Smith for the treatment and care of Robert Allan Smith,
 73 excluding the federal portion of any liens, are hereby waived or
 74 extinguished.

75 Section 4. The amount paid by Orange County pursuant to s.

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76 | 768.28, Florida Statutes, and the amount awarded under this act
77 | are intended to provide the sole compensation for all present
78 | and future claims arising out of the factual situation described
79 | in this act which resulted in injuries and damages to Robert
80 | Allan Smith. Of the amount awarded under this act, the total
81 | amount paid for attorney fees may not exceed \$150,000, the total
82 | amount paid for lobbying fees may not exceed \$37,500, and the
83 | total amount paid for costs and other similar expenses relating
84 | to this claim may not exceed \$71,511.15.

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