

By Senator Cruz

18-00176-22

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1 A bill to be entitled
2 An act for the relief of the Estate of Molly Parker;
3 providing an appropriation to compensate the Estate of
4 Molly Parker for Ms. Parker's death, sustained as
5 result of the negligence of the Department of
6 Transportation; providing a limitation on compensation
7 and the payment of attorney fees; providing an
8 effective date.

9
10 WHEREAS, on December 12, 2019, shortly after 9 a.m., a dump
11 truck driven by Jesmond Russ and registered to the Florida
12 Department of Transportation (FDOT), fully loaded with dirt and
13 weighing over 40,000 pounds, collided with a sport utility
14 vehicle (SUV) driven by Molly Morrison Parker, a 39-year-old
15 wife and mother who was a resident of Santa Rosa Beach, and

16 WHEREAS, the crash occurred in Marianna, Jackson County, at
17 the intersection of County Road 167 and State Road 2, both paved
18 two-lane highways with posted stop signs, as well as marked stop
19 bars on both the north and south portions of State Road 2,
20 regulating the flow of traffic on County Road 167, and

21 WHEREAS, Mr. Russ, traveling on State Road 2, claims to
22 have stopped at the intersection, looked both ways, and, just
23 before clearing the intersection, while crossing the eastbound
24 travel lane of State Road 2, noted a silver SUV out of the
25 corner of his eye, and then the crash occurred, and

26 WHEREAS, the Florida Highway Patrol charged Mr. Russ, at
27 the time a 33-year-old employee of the FDOT, with failing to
28 yield the right-of-way in violation of s. 316.123(2)(a), Florida
29 Statutes, and

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30 WHEREAS, according to the Florida Highway Patrol crash
31 investigation report, damage to Ms. Parker's vehicle required
32 first responders to use the Jaws of Life to gain access to and
33 extricate Ms. Parker from the vehicle, and

34 WHEREAS, Ms. Parker suffered life-threatening injuries in
35 the crash and was transported by AIRHeart 2 medical helicopter
36 services to Southeast Health in Dothan, Alabama, where she was
37 admitted for treatment of her injuries and was pronounced
38 deceased on December 22, 2019, and

39 WHEREAS, Ms. Parker's June 12, 2020, Alabama Certificate of
40 Death states the cause of death as "motor vehicle accident
41 status post left decompressive hemicraniectomy, traumatic brain
42 injury with intraparenchymal hemorrhage and intraventricular
43 hemorrhage, acute encephalopathy with diffuse axonal injury, and
44 acute respiratory failure post terminal extubation," and

45 WHEREAS, Mr. Russ entered the intersection when unsafe and
46 into the path of Ms. Parker's SUV, and his violation of s.
47 316.123(2)(a), Florida Statutes, was the sole cause of this
48 crash, all property damage, and the death of Ms. Parker, and

49 WHEREAS, Ms. Parker was wearing her seat belt and driving
50 the speed limit in the proper lane, neither driver was impaired,
51 no environmental conditions contributed to the crash, and there
52 were no visual obstructions that would have blocked Mr. Russ'
53 view of vehicles traveling toward the intersection, had he
54 stopped and looked several times as he claims he did, and

55 WHEREAS, Jackson County Circuit Judge Wade Mercer, who
56 presided over a March 11, 2021, hearing in this case, denied Mr.
57 Russ' motion for acquittal, ruling that "there is no doubt in my
58 mind that Mr. Russ is guilty of running a stop sign as defined

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59 by s. 316.123, Florida Statutes," and

60 WHEREAS, in making this ruling, Judge Mercer admonished the
61 defendant, stating, "It is concerning that even today, months
62 later, he's still denying the existence of the car that hit his
63 vehicle. If you believe Mr. Russ's testimony and if he was a
64 hundred percent accurate, then this car got dropped out of the
65 sky from somewhere because it was never there. And as far as you
66 can see up the road, that is impossible. This car could have
67 been going, based on the roads I've seen in these photographs,
68 200 miles an hour and still he would have crossed that
69 intersection and got out of the way had he not entered the
70 intersection in a dangerous manner," and

71 WHEREAS, against the clear weight of the evidence, the FDOT
72 claims that Ms. Parker contributed to her death because her cell
73 phone was found on the floorboard of her vehicle after the
74 crash, despite the fact that her cell phone records plainly
75 demonstrate that she was not on her phone when the crash
76 occurred and that her last call was a one-minute exchange that
77 occurred a half hour before the crash, and

78 WHEREAS, the Estate of Molly Parker, her surviving spouse,
79 and her surviving minor child seek to recover the excess
80 judgment for a verdict expected to be rendered during the 2022
81 Legislative Session in excess of the limitations on liability
82 set forth in s. 768.28, Florida Statutes, and

83 WHEREAS, the unpaid amount of the final judgment is
84 \$_____ million, NOW, THEREFORE,

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

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88 Section 1. The facts stated in the preamble to this act are
89 found and declared to be true.

90 Section 2. The sum of [\$ amount] is appropriated from the
91 General Revenue Fund to the Department of Transportation for the
92 relief of the Estate of Molly Parker for her death.

93 Section 3. The Chief Financial Officer is directed to draw
94 a warrant in favor of the Estate of Molly Parker in the sum of
95 [\$ amount] upon funds of the Department of Transportation in the
96 State Treasury and to pay the same out of such funds in the
97 State Treasury.

98 Section 4. The amount paid by the Division of Risk
99 Management of the Department of Financial Services pursuant to
100 s. 768.28, Florida Statutes, and the amount awarded under this
101 act are intended to provide the sole compensation for all
102 present and future claims arising out of the factual situation
103 described in this act which resulted in the death of Molly
104 Morrison Parker. The total amount paid for attorney fees
105 relating to this claim may not exceed 25 percent of the total
106 amount awarded under this act.

107 Section 5. This act shall take effect July 1, 2022.