

Committee Substitute for Senate Bill No. 10

An act for the relief of Elizabeth Schnell and Frederick Schnell; providing an appropriation to compensate them for injuries and damages sustained as a result of the negligence of the Department of Highway Safety and Motor Vehicles; providing an effective date.

WHEREAS, at 7:15 a.m. on January 25, 1997, Frederick Schnell was operating his motor vehicle, in which his wife Elizabeth Schnell was a passenger, westbound on State Road 60 approximately 1 mile west of Interstate 95 in Indian River County, and

WHEREAS, Mr. Schnell was traveling at the posted speed limit of 55 miles per hour, and

WHEREAS, Trooper Wayne Titus was traveling eastbound on State Road 60 and, for unknown reasons, Trooper Titus abruptly changed lanes and collided head-on with the Schnell vehicle, and

WHEREAS, Trooper Titus was traveling approximately 71 miles per hour at the point of impact, and

WHEREAS, the circuit court judge ruled as a matter of law that the Department of Highway Safety and Motor Vehicles was responsible for Mr. and Mrs. Schnell's injuries and damages, and

WHEREAS, Mr. Schnell suffered extensive physical injuries, and

WHEREAS, Mr. Schnell continued medical treatment for his physical injuries through April 21, 1997, then discontinued treatment because of the necessity to be with his wife, and

WHEREAS, Mr. Schnell has undergone, and continues to undergo, psychiatric treatment and counseling for a permanent psychiatric injury resulting from the accident, and

WHEREAS, Mrs. Schnell was transported by helicopter from the scene of the accident to Holmes Regional Medical Center in Melbourne, where she underwent emergency, lifesaving surgery to ameliorate a catastrophic brain injury sustained in the accident, and she subsequently underwent four additional surgeries during her hospitalization, and

WHEREAS, on March 3, 1997, Mrs. Schnell, who was semicomatose, was transferred to Orlando Regional Medical Center, Sandlake Hospital, and

WHEREAS, at Sandlake Hospital, Mrs. Schnell began speech, occupational, and physical therapy and underwent another major surgical procedure, and

WHEREAS, while hospitalized in Orlando, Mrs. Schnell was declared by the court to be an incapacitated person, and her husband was appointed her legal guardian, and

WHEREAS, on June 24, 1997, Mrs. Schnell was transferred to Health-south Treasure Coast Rehabilitation Hospital in Vero Beach and was later transferred to Florida Institute for Neurologic Rehabilitation in Wauchula, Florida, and

WHEREAS, she presently requires care 24 hours a day, must use a wheelchair, has paralysis of her right side, has moderate loss of her short-term memory, and requires assistance in all her daily activities, and

WHEREAS, Mrs. Schnell's doctors and case managers recommend that, upon discharge from the Florida Institute, she be transferred to the home environment and cared for there, with the aid of attendants and residential services, and continual lifetime speech, occupational, and physical therapies, and

WHEREAS, before the accident, Mrs. Schnell was a 41-year-old attorney who also had a bachelor's degree and one master's degree, and was working toward a second master's degree, and

WHEREAS, after 7 days of trial, a jury awarded Mrs. Schnell \$875,446 for past medical bills and lost wages, \$9,331,774 for future medical bills and lost wages, \$1 million for past pain and suffering, and \$5 million for future pain and suffering, for a total award of \$16,207,220, and

WHEREAS, the jury also awarded Mr. Schnell \$41,159 for past medical bills and lost wages and \$4,171 for future lost wages, \$500,000 for past pain and suffering and \$1 million for future pain and suffering, and damages for the loss of his wife's consortium in the amount of \$500,000 for past loss and \$1 million for the future, for a total award of \$3,045,330, and,

WHEREAS, after the jury's verdict was entered, the trial judge ordered a remittitur, reducing the award to Mrs. Schnell to \$14,784,089 and reducing the award to Mr. Schnell to \$2,227,468.84, and

WHEREAS, the Department of Highway Safety and Motor Vehicles has paid a total of \$200,000 to the claimants under section 768.28, Florida Statutes, Florida's sovereign immunity law, and

WHEREAS, after final judgment was entered, the parties agreed to settle all outstanding claims in this matter for \$9,750,000, to be paid to the claimants pursuant to a claim bill, and

WHEREAS, the \$9,750,000 settlement amount will be apportioned as follows: for Elizabeth Schnell in the amount of \$8,473,349.07 and for Frederick Schnell in the amount of \$1,276,650.93, and

WHEREAS, the Legislature has generally favored structured payments and guaranteed term annuities in large claims and in claims on behalf of those who have suffered serious or permanent injuries that are likely to require substantial or long-term medical care, NOW, THEREFORE,

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

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

Section 2. The sum of \$8,473,349.07 is appropriated out of the funds in the State Treasury to the credit of the Department of Highway Safety and Motor Vehicles to be paid to Elizabeth Schnell as relief for her losses. After the payment of fees and costs, medical bills and other immediate needs, the remaining proceeds shall be used to purchase an appropriate structured financial plan to ensure the continued medical care of Mrs. Schnell. In the event of Mrs. Schnell's death within twenty years of the date of the enactment of this bill, the residual monies in the structured financial plan shall revert to the General Revenue Fund of the State of Florida. If Mrs. Schnell's death occurs after twenty years of the date of the enactment of this bill, then the residual monies in the structured financial plan shall inure to the benefit of Mrs. Schnell's estate. In the event Mrs. Schnell dies prior to twenty years from the date of the enactment of this bill, then her estate shall be entitled to two additional years of payments pursuant to the structured financial plan.

Section 3. The sum of \$1,276,650.93 is appropriated out of the State Treasury to the credit of the Department of Highway Safety and Motor Vehicles to be paid to Frederick Schnell as relief for his losses.

Section 4. The Comptroller is directed to draw a warrant in favor of Elizabeth Schnell in the sum of \$8,473,349.07 and to draw a warrant in favor of Frederick Schnell in the sum of \$1,276,650.93, upon funds in the State Treasury to the credit of the Department of Highway Safety and Motor Vehicles, and the State Treasurer is directed to pay the same out of such funds.

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

Approved by the Governor May 25, 2000.

Filed in Office Secretary of State May 25, 2000.