

Committee Substitute for Senate Bill No. 42

An act relating to Orange County; providing for the relief of Maria Garcia, as legal guardian of Delfina Benjumea, for injuries and damages sustained by Ms. Benjumea as a result of the negligence of the Orange County Sheriff's Office; providing legislative intent with respect to expenditures; providing an effective date.

WHEREAS, on July 11, 1996, Delfina Benjumea, an 82-year-old woman, had come to the Orlando area from Colombia to visit her family, and

WHEREAS, while in Orlando, Ms. Benjumea participated in a senior-citizen program run by the City of Orlando, and

WHEREAS, on July 11, 1996, a fellow participant in the program gave Ms. Benjumea a ride from the center and mistakenly left her at an apartment complex other than the one in which her daughter resided, and

WHEREAS, in an effort to walk to her daughter's home, Ms. Benjumea became lost, and a sheriff's deputy undertook to drive her to adult protective services, and

WHEREAS, on the way to their destination, the deputy rear-ended a 1992 Lexus automobile at such a speed as to cause airbags in the sheriff's vehicle to deploy, and

WHEREAS, after the accident, Ms. Benjumea was evaluated at a hospital for complaints of neck and back pain and released, but, during the next several weeks, she experienced increased headaches, dizziness, and confusion, and

WHEREAS, on August 3, 1996, Maria Garcia found her mother lying in the grass in front of her apartment complex, and Ms. Benjumea was taken to Florida Hospital South, where a CT Scan of the brain revealed very large bilateral subacute subdural hematomas, and

WHEREAS, surgical procedures were performed to open the skull and relieve the hematomas, and

WHEREAS, Ms. Benjumea was released from the hospital 3 days later but returned there in September 1996, because of coagulation and clotting, and

WHEREAS, at a trial based on allegations that the aforementioned accident had caused brain injury, a neurologist testified that Ms. Benjumea had suffered a traumatic brain injury with residual cognitive and behavioral impairment and further concluded that Ms. Benjumea is totally incapacitated and is in need of constant supervision, and

WHEREAS, a three-person medical panel, in connection with Ms. Benjumea's guardianship proceeding in 1997, issued findings consistent with the doctor's opinion, and

WHEREAS, at trial, a jury determined that the sheriff was 100 percent at fault in the accident, and the jury awarded Ms. Benjumea damages totalling \$384,433, including \$87,745 for past medical expenses, \$172,000 for future medical expenses, and \$124,688 for past and future pain and suffering, and

WHEREAS, plaintiff agreed to a remittitur post-trial, and a final judgment in the amount of \$362,954, including taxable costs, was entered in October, 1998, and

WHEREAS, the sheriff has tendered \$100,000 in accordance with the limits on waiver of sovereign immunity which are set forth in section 768.28, Florida Statutes, 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 Orange County Sheriff's Office is authorized and directed to appropriate from funds of the sheriff's office not otherwise appropriated and to draw a warrant in the sum of \$152,500, which amount includes statutory attorney's fees and costs, payable to Maria Garcia as legal guardian of Delfina Benjumea, to be placed in the guardianship account of Delfina Benjumea to compensate Delfina Benjumea for injuries and damages sustained as a result of the negligence of an employee of the Orange County Sheriff's Office. It is the intent of the Legislature that no funds appropriated by this act be spent, incurred, or obligated under the guardianship account for any extraordinary expenditures without prior order of the circuit court.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2002.

Filed in Office Secretary of State June 5, 2002.