

1 A bill to be entitled
2 An act for the relief of Cathleen Smiley by Brevard
3 County; providing for an appropriation to compensate
4 Cathleen Smiley for personal injuries and damages
5 sustained in an automobile accident caused by a
6 Brevard County employee; providing for payment by
7 Brevard County; providing a limitation on the payment
8 of fees and costs; providing an effective date.
9

10 WHEREAS, on June 18, 1998, Cathleen Smiley was the driver
11 of her vehicle when it was struck in the rear section by a van
12 driven by Howard Evarts which had been struck in the rear
13 section by a passenger bus owned by the Brevard County Board of
14 County Commissioners, and

15 WHEREAS, the Brevard County employee operating the bus was
16 traveling at approximately 45 miles per hour when the bus hit
17 the vehicle in which Mr. Evarts was traveling, causing Mr.
18 Evarts' vehicle to hit Ms. Smiley's vehicle, and

19 WHEREAS, the vehicles which Ms. Smiley and Mr. Evarts were
20 operating were appropriately stopped in their lane of travel
21 waiting to make a left turn, and

22 WHEREAS, at the time of the accident, Ms. Smiley was
23 without personal resources for medical insurance, other than
24 nominal personal injury protection, to adequately care for the
25 injuries she suffered as a result of the accident, and

26 WHEREAS, Ms. Smiley was knocked unconscious and suffered
27 permanent injuries to the neck and left shoulder, and

28 WHEREAS, Christopher Prusinski, D.O., a neurologist in
29 Brevard County, has opined that Ms. Smiley has reached maximum
30 medical improvement and has an 8 percent whole body impairment
31 due to the accident, and

32 WHEREAS, Dr. Prusinski also has opined that Ms. Smiley will
33 require extensive future chiropractic care and treatment, and

34 WHEREAS, since the accident Ms. Smiley has required
35 continuing care and treatment, and it is anticipated that she
36 will require ongoing care in the future, including chiropractic
37 treatment and periodic medical intervention and diagnostic
38 testing, and

39 WHEREAS, on January 25, 2016, a consent judgment was
40 entered after Ms. Smiley and Brevard County agreed to a
41 stipulated judgment in the amount of \$25,000 in case number 05-
42 2000-CA-004291-XXXX-XX, and

43 WHEREAS, Ms. Smiley is one of five persons who filed
44 lawsuits related to the accident, and

45 WHEREAS, at the time Ms. Smiley filed her lawsuit, on or
46 about February 29, 2000, Brevard County had already paid
47 property damage, medical, and injury claims totaling \$101,410.
48 Additionally, the county was evaluating two additional related
49 personal injury lawsuits, and

50 WHEREAS, after these property damage, medical, and injury

51 | claims were settled, only \$98,590 remained to resolve the other
52 | claims filed in connection with the accident, and

53 | WHEREAS, Howard and Sharon Evarts and Alan Hammer filed
54 | their lawsuits against Brevard County on June 24, 1999, and

55 | WHEREAS, consent judgments were entered by the Circuit
56 | Court for the 18th Judicial Circuit in Brevard County on
57 | November 30, 2000, pursuant to an agreement entered into by
58 | plaintiffs Evarts and Hammer and Brevard County for stipulated
59 | judgments in case numbers 05-1999-CA-025509-XXXX-XX (Evarts) and
60 | 05-1999-CA025510-XXXX-XX (Hammer), each in the amount \$125,000,
61 | and

62 | WHEREAS, Mr. Evarts and Mr. Hammer each received \$49,295
63 | out of the remaining balance of \$98,590 of the county's \$200,000
64 | sovereign immunity limitation and, pursuant to their settlement
65 | agreements with Brevard County, received the balance of their
66 | judgments through the claim bill process as articulated in
67 | chapter 2003-346, Laws of Florida, and chapter 2003-345, Laws of
68 | Florida, respectively, and

69 | WHEREAS, Brevard County and Ms. Smiley agreed that she
70 | would pursue payment of the stipulated judgment due her in the
71 | amount of \$25,000 from the county through the claim bill
72 | process, and

73 | WHEREAS, Brevard County has agreed that it would not oppose
74 | a claim bill being rendered against the county in this matter
75 | and would support same, NOW, THEREFORE,

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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. Brevard County is authorized and directed to appropriate from funds of the county not otherwise appropriated and to draw a warrant in the sum of \$25,000 payable to Cathleen Smiley, now known as Cathleen Waller, to compensate her for personal injuries and damages sustained.

Section 3. The amount paid by Brevard County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injuries and damages to Cathleen Smiley. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed \$6,250, no amount may be paid for lobbying fees, and the total amount paid for costs and other similar expenses relating to this claim may not exceed \$2,343.12.

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