

LEGISLATIVE CLAIM BILL MANUAL

POLICIES, PROCEDURES, AND
INFORMATION CONCERNING
INTRODUCTION AND PASSAGE



THE FLORIDA SENATE
OFFICE OF THE PRESIDENT



THE FLORIDA HOUSE OF
REPRESENTATIVES

Revised August 2023

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INTRODUCTION

This manual is designed to assist in navigating through the claim bill process. Senate and House staff are available to answer questions about the claim bill process. Senate staff can be reached at 850-487-5229 and House staff can be reached at 850-717-4850.

Suggested Procedures for Legislators

- ✓ Advise the claimant or attorney of the sequence of events in the filing of a claim bill.
- ✓ Senate Rule 4.81(2) requires a current serving Senator to file any claim bill by the first Friday in August; and a newly elected Senator to file any claim bill by the sixth Friday after election. A House bill must be filed by noon of the first day of the regular session. *See* House Rule 5.2(a).
- ✓ A House claim bill that does not have a Senate companion bill timely filed in the Senate will not be considered by the Senate except as provided in Senate Rule 4.81(2) or if the Senate Rules are waived.
- ✓ Check with the staff of either chamber to determine whether the claim was filed in a prior year and, if so, obtain a copy of any public reports.
- ✓ Ask the claimant to provide an information packet containing the major documentation and a summary of the highlights of the claim. Submit the information to your chamber's bill drafting office for preparation of the claim bill.
- ✓ Provide contact information for counsel of the claimant and respondent to the special master. Each chamber will have its own special master assigned to review and report on specific claim bills; however, to minimize travel and avoid duplicative proceedings, the special masters usually hold a joint hearing for each claim bill. Legislators are invited to attend the special masters' hearing; however, attendance by the introducer of a claim bill is not required.
- ✓ Ensure that all submissions have been timely provided to the special masters so that the claim is ready to be heard by the special masters when they schedule the hearing.
- ✓ Ensure that the claimant will be present at the hearing, as required.
- ✓ Follow the bill through the regular committee process. In the Senate, the introducer, or the first- or second-named co-introducer, of a bill may present the bill at the meeting of the committee before which the bill is noticed. With a prior written request of the introducer to the committee chair, a member of the committee may present the bill. *See* Senate Rule 2.11(1). The special master will generally be available at committee meetings to answer questions. *See* Senate Rule 4.81(3) and House Rule 5.6(a).

I. DEFINITIONS AND PROCESS

A. What is a Claim Bill?

Generally, a claim bill, sometimes called a relief act, is a bill that compensates a particular individual or entity for injuries or losses occasioned by the negligence or error of a public officer or agency. It is a means by which an injured party may recover damages even though the public officer or agency involved may be immune from suit. Majority approval in both chambers of the Legislature is required for passage.

B. What is Sovereign Immunity?

Sovereign immunity is a doctrine that prohibits suits against the government without the government's consent. The State Constitution addresses sovereign immunity in Article X, Section 13, which allows the state to waive its immunity through general law. Sovereign immunity extends to all subdivisions of the state, including counties, municipalities, local constitutional officers, and school boards.

In 1973, the Florida Legislature enacted section 768.28, Florida Statutes, which allows individuals to sue the state government, subdivisions of the state, counties, municipalities and political subdivisions under circumstances where a private person "would be liable to the claimant, in accordance with the general laws of the state."

C. Is there a Statute of Limitations?

Pursuant to section 11.065, Florida Statutes, no claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued. Further, all relief acts of the Legislature must be for payment in full. No further claims for relief may be submitted to the Legislature for a previously compensated claim.

D. Are there Monetary Limits on Recovery?

Section 768.28(5), Florida Statutes, imposes a \$200,000 limit per person and a \$300,000 limit per incident on the collectability of any tort judgment based on the government's liability.¹ These limits do not preclude plaintiffs from obtaining judgments in excess of the statutory cap; however, plaintiffs cannot force the government to pay damages that exceed the recovery cap. A claimant must petition the Legislature, in accordance with its rules, to seek an appropriation to pay a judgment against the state or state agency, which requires passage of a claim bill. *See* sections 11.066 and 768.28(5), Florida Statutes. For recovery of an excess judgment or equitable claim against a subdivision of the state, the Legislature may direct such payment through passage of a claim bill. *See* section 768.28(5), Florida Statutes.

E. Must All Available Remedies be Exhausted?

Senate Rule 4.81(6) and House Rule 5.6(c) provide that the Legislature will not process a contested claim bill until the claimant has exhausted all available administrative and judicial remedies. However, both chambers may consider a bill in which the parties have executed a

¹ Section 1, ch. 2010-26, Laws of Florida, amended s. 768.28(5), Florida Statutes, effective October 1, 2011, applicable to claims arising on or after that date, to the current levels.

written settlement agreement. Moreover, Senate Rule 4.81(6) provides another exception for a claim bill regarding wrongful incarceration.

F. General or Local?

1. General Bills

A general law is an act intended to have statewide application. For claim bill purposes, if the respondent of the claim is a state agency, which would require an appropriation from the state's general revenue or from an executive agency's budget, then the claim is a general bill. The "relating to" clause for a general claim bill names the claimant or claimants seeking relief under the act, as in:

"An act for the relief of John Smith and Mary Smith."

2. Local Bills and Special Requirements

A local or special law is any legislative act that applies to an area or entity less than the total area or population of the state; and contains subject matter entitling those to whom it is applicable to the publication or referendum required by Article III, Section 10, of the State Constitution. Generally, if the respondent is a county, municipality, school board, district, local constitutional officer, or other subdivision of the state, then the claim is a local bill.

Article III, Section 10, of the State Constitution, prohibits passage of a special law unless notice of intention to seek enactment thereof has been published in the manner provided by general law.

Sections 11.02, 11.021, and 11.03, Florida Statutes, provide the requirements for publication of the required notice. The notice must contain the name of the claimant, the nature of the injury or loss, and the amount of the claim. A sample notice is in the Examples section of this manual.

Section 11.03, Florida Statutes, provides a general form for proof of publication of notice. Additionally, Senate Rule 3.3 and House Rule 5.5(c) require that all local claim bills be accompanied by an affidavit of proper advertisement. The House Rule requires the affidavit to be securely attached to the original bill ahead of its first page. With regard to the proof of publication, the Senate Rule requires the proof of publication to be securely attached to the original copy of the bill, when introduced, and the words "Proof of Publication Attached" clearly typed or stamped on the Senate side of the bill jacket.

There are two important characteristics distinguishing a general claim bill from a local claim bill: the "relating to" clause in the title of the bill and the appropriation sections that follow the enacting clause.

The "relating to" clause for a general claim bill should always name the claimant or claimants seeking relief under the act, as in:

"An act for the relief of John Smith and Mary Smith."

The “relating to” clause in the title of a local claim bill should always cite the name of the county or the local governmental entity from which compensation is being sought. In other words, the “relating to” clause of a local relief act always indicates that the bill is local in nature, as in the following examples:

“An act for the relief of James Simpson by Seminole County”;

“An act for the relief of Danielle Simms and Corey Simms by the Palm Beach County Sheriff’s Department”; and

“An act for the relief of Hunter Wright by the West Volusia Hospital District.”

G. What are the Filing Deadlines?

Senate Rule 4.81(2) requires a current serving Senator to file any claim bill by the first Friday in August; and a newly elected Senator to file any claim bill by the sixth Friday after election. House Rule 5.2 requires that general and local bills be filed with the House Clerk by noon of the first day of the regular session.

H. Is there a Limit on the Number of Bills a Legislator Can File?

Senate Rules do not limit the number of bills a Senator may file. Although House Rule 5.3 prohibits members from filing more than seven bills for a regular session, claim bills, whether general or local, do not count toward a member’s seven bills. *See* House Rule 5.3(b)(9).

I. Can a Claimant Collect in Excess of the \$200,000/\$300,000 Limit Without Filing a Claim Bill?

Section 768.28(5), Florida Statutes, provides that the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to pay a claim made or an excess judgment rendered against it without further action by the Legislature.

J. Are there any Limitations or Restrictions on Fees?

Section 768.28(8), Florida Statutes, provides that no attorney may charge, demand, receive, or collect, for services rendered, fees in excess of 25 percent of any judgment or settlement.

Fees contingent upon the outcome of any specific legislative action are generally prohibited by section 11.047(2), Florida Statutes, except in the case of claim bills. It is considered a conflict of interest for a legislator to file a claim bill if that legislator, or the legislator’s law partner, would receive a fee for services.

II. CITATIONS: STATE CONSTITUTION, FLORIDA STATUTES, LEGISLATIVE RULES

A. State Constitution

Article III, Section 10, State Constitution—Special laws

Article X, Section 13, State Constitution—Suits against the state

B. Florida Statutes

Section 11.02, F.S.—Notice of special or local legislation or certain relief acts.

Section 11.021, F.S.—Evidence of publication of notice.

Section 11.03, F.S.—Proof of publication of notice.

Section 11.047, F.S.—Contingency fees; prohibitions; penalties.

Section 11.065, F.S.—Claims against state; limitations; notice.

Section 11.066, F.S.—Suits seeking monetary damages against the state or its agencies; payment of judgments; appropriations required.

Section 768.28, F.S.—Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.

C. Senate Rules

Senate Rule 3.3—Form of local bills

Senate Rule 4.81—Claim bills

D. House Rules

House Rule 5.2—Member Bill Filing Deadline

House Rule 5.3—Limitation on Member Bills Filed

House Rule 5.5—Local Bills

House Rule 5.6—Claim Bills

III. DRAFTING A CLAIM BILL

A. **Payment of Statutory Limits of Liability**

Language of a proposed claim bill should include whether the governmental entity from whom relief is sought has paid the claimant or claimants the requisite amounts due under section 768.28, Florida Statutes. To avoid confusion, a clause stating whether the respondent has already paid the underlying amount should be included at or near the end of the “WHEREAS” clauses, followed by a statement of the remaining amount of the claim.

B. **Apportionment of Claim Among Multiple Claimants**

When there are multiple claimants, the claim bill should specify the exact amount each claimant is to receive.

Claim bills with multiple claimants may require a separate appropriation section for each claimant and are usually apportioned in direct proportion to the jury award or settlement amounts.

C. **Medicaid Reimbursement Provisions**

Where Medicaid reimbursement is owed, use the following language:

Section_. The governmental entity responsible for payment of the warrant shall pay to the Florida Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due the agency shall be equal to all unreimbursed medical payments paid by Medicaid up to the date upon which this bill becomes a law.

Should this language be the subject of an amendment to a claim bill, an accompanying title provision is needed. “Providing for repayment of Medicaid liens” would be a sufficient title proviso for such a section.

D. **Award of Claim to Minors and Incompetents—Establishment of Trust or Guardianship**

It is important to know whether the claimant is currently a ward and whether the claimant was a ward at the time of the incident that gave rise to the cause of action upon which the claim is based. If the claimant is a ward and will be a ward at the time of the prospective passage of the claim bill, it is essential to disclose whether a trust or guardianship account has been established for the ward.

E. **Effective Dates**

Effective dates of claim bills should adhere to the following guidelines:

- If the bill is a general bill and the Legislature intends funds for payment of a claim to be appropriated from the current fiscal year’s budget, use an effective date of no later than June 30.
- If the bill is a general bill and the Legislature intends funds for payment of a claim to be appropriated from the upcoming fiscal year’s budget, use an effective date later than July 15.

- If the bill is a local claim bill, the bill may have an effective date upon becoming a law, an effective date that is a specific date necessitated by the facts, or the effective date may coincide with the beginning of a local government's fiscal year.

IV. THE SPECIAL MASTER PROCESS

A. Referral to Special Masters

Once a claim bill is filed, the presiding officer of each chamber may refer the bill to a special master of that chamber, as well as to one or more committees. It is the duty of each special master to make specific and objective findings of fact and conclusions of law. The Senate and House special masters usually conduct a joint hearing to find facts and determine whether there is liability.

B. Special Master Conference Call

After a claim bill is referred to the special masters, the special masters confer with the parties to schedule a conference call for purposes of reviewing the process, narrowing issues on which there may be agreement, setting discovery and evidentiary deadlines, if necessary,² and scheduling a final hearing.

Ex parte communication with the special masters, unless it involves a procedural matter, is prohibited.

C. Prehearing Submissions

The claimant has the burden to prove the elements of negligence by a preponderance of the evidence and the elements of wrongful incarceration by clear and convincing evidence.³ Therefore, for negligence, the claimant is expected to provide the special masters with the necessary submissions (which may include transcripts, videos, PowerPoint presentations, records, and other materials) to support a finding of liability, and an affidavit explaining the breakdown of attorney fees and lobbying fees. For wrongful incarceration, the claimant is expected to provide the special masters with the necessary submissions to support a finding of actual innocence. The respondent is also expected to provide the special masters with relevant submissions.

All submissions should be sent to the Senate and House special masters, individually, as well as to the opposing party. Senate Rule 4.81(7) requires electronic submission of all materials; the House Rules are silent on the matter. The parties may submit hard copies in addition to electronic submissions.

D. Special Master Final Hearing

1. Location

The final hearing, which is open to the public, usually takes place at the Capitol Complex in Tallahassee, Florida. The special masters will inform the parties of the room location.

² Extraordinary discovery is usually unnecessary; however, the special masters may set deadlines for discovery, if needed.

³ If the underlying cause of action is a claim other than negligence or wrongful incarceration, the parties should provide materials and arguments pertaining to the underlying cause of action.

2. Format

The Senate and House special masters preside over the hearing, which is administrative in nature. In general, the hearing is limited to one day for contested matters and half a day for uncontested matters. Both parties have the opportunity to submit evidence, live testimony, and transcript testimony (whether deposition, trial, or otherwise). The parties are not expected to re-litigate the whole matter; however, the hearing is *de novo*, with the burden of proof on the claimant to show, by a preponderance of the evidence, a duty, breach, causation, and damages for negligence. For wrongful conviction, the burden of proof is on the claimant to show, by clear and convincing evidence, actual innocence. Special masters are not bound by jury verdicts or stipulations entered into by the parties, though they may consider such information. Even if there is a jury verdict or settlement agreement, there must be credible evidence in the record to support each of the legal elements of the cause of action.

The special masters administer oaths to witnesses, accept relevant documentary and tangible evidence properly offered, and record the hearing. The special master final hearing generally uses the following format:

- a. Introduction of the special masters, claimant, respondent, and attorneys.
- b. Opening statement by the claimant's attorney (should not exceed 10 minutes).
- c. Opening statement by the respondent's attorney (should not exceed 10 minutes).
- d. Presentation of claimant's case in chief (e.g., negligence action: duty, breach, causation, damages). The claimant may introduce evidence, including the admission of transcript testimony, and call witnesses who are placed under oath. The respondent may cross-examine each witness, and the special masters may question each witness.
- e. Presentation of the respondent's case in chief. The respondent may introduce evidence, including the admission of transcript testimony, and call witnesses. The claimant may cross-examine each witness, and the special masters may question each witness.
- f. If the claimant has not yet testified, the special masters will call the claimant to testify. The special masters may also ask questions directly of the attorneys representing the claimant and respondent.
- g. If time permits, the special masters may permit each attorney to offer a brief closing not to exceed 10 minutes each.

3. Admission of Evidence

The final hearing is informal in nature and the special masters are not governed specifically by the Rules of Evidence. Thus, certain evidence may be allowed into the record even if it is hearsay or would otherwise be inadmissible at trial. Nonetheless, the special masters may

disregard or prohibit irrelevant evidence or evidence they consider unnecessary to the proceeding. Parties may object to evidence, and the special masters may take such objections into account when giving weight to the evidence; however, the special masters may refrain from making a formal ruling on an objection.

4. Attendance Requirements

The claimant **must** attend the final hearing, preferably in person, though the special masters may permit appearance by webcam or other means in certain situations. If the claimant appears remotely and is physically present in the United States, the claimant must arrange to have a person authorized under state law to be present in the same room to place the claimant under oath before testimony is given. Other witnesses are not required to be in attendance. The respondent's presence is encouraged but not required.

E. Posthearing Procedures

1. Posthearing Submissions

The special masters may allow posthearing submissions and often allow up to 14 days after the final hearing for such submissions. The special masters may also request each party to submit proposed findings of fact and conclusions of law.

2. Special Masters' Final Reports

Each special master usually drafts a separate report including findings of facts, conclusions of law, and a final recommendation of the claim. The special masters may provide differing recommendations. The Legislature is not bound by the special masters' reports or recommendations. Usually, a special master report is not released until the claim bill is placed on the agenda for its first committee meeting.

3. Settlement

The parties may agree to settle a claim bill at some point during the claim bill process. The parties should immediately notify both special masters, in writing, of any settlement agreement.

4. Passage of the Claim Bill

After the special master final hearing, the claim bill is still subject to each chamber's rules for passage. If the bill passes both houses of the Legislature, the Governor may sign it or allow it to become law without signature. It is the duty of the parties to track the claim bill through the legislative process.

V. EXAMPLES

A. Sample Funding Language

LOCAL GOVERNMENT DEFENDANT

(city, county, sheriff, school board, special districts)

The (identify the city, county, sheriff, school board, or special district) is authorized and directed to appropriate from funds not otherwise appropriated and to draw a warrant payable to _____ for the total amount of \$ _____ for injuries and damages sustained due to _____ on _____ (claimant).

STATE AGENCY DEFENDANT

General Revenue Source

There is appropriated from the General Revenue Fund to the Department of _____ the sum of \$ _____ for the relief of _____ for injuries and damages sustained.

The Chief Financial Officer is directed to draw a warrant in favor of _____ in the sum of \$ _____ upon the funds of the Department of _____ in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

Trust Fund Source

There is appropriated from the _____ Trust Fund to the Department of _____ the sum of \$ _____ for the relief of _____ for injuries and damages sustained.

The Chief Financial Officer is directed to draw a warrant in favor of _____ in the sum of \$ _____ upon the funds of the _____ Trust Fund within the Department of _____ in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

Chapter 216 Transfer

(Requires Legislative Budget Commission approval for any General Revenue transfer and for any Trust Fund transfer over \$1 million.)

Pursuant to the provisions of section 216.292, Florida Statutes, the Department of _____ shall request transfer of existing spending authority in the amount of \$ _____ from existing operating categories of the Department of _____ to a new category titled "Relief: _____" in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

The Chief Financial Officer is directed to draw a warrant in favor of _____ in the sum of \$ _____ upon the funds of the _____ Trust Fund within the Department of _____ within the category titled "Relief: _____" in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

B. Restrictions on Payment Language

DISTRIBUTION TO GUARDIAN*

Payment to the guardian of the claimant, including a reversion to the source of payment upon the death of the claimant. (This language should be used if the claimant is a minor or is incompetent. It is intended to protect payments to claimants who are otherwise unable to protect their own interests).

“... payable to {guardian of claimant} as legal guardian of {claimant}, to be placed in the guardianship account of {claimant}, to compensate him/her for injuries and damages sustained as a result of the negligence of {respondent}. Upon the death of {claimant}, any balance of the \${amount} remaining in the guardianship account shall revert to the {payor}. It is the intent of the Legislature that no funds exceeding {\$ amount} appropriated herein subsequently be spent, or any obligation thereof incurred by the guardian, without prior order of the circuit court.”

STRUCTURED PAYMENT—DIRECT*

Payment through a structured payout. (This language is typically used when the parties have agreed to a settlement requiring payment over a period of years while ensuring compensation to the claimant for a period of years.)

“...upon passage of this bill, the {payor} shall pay {claimant} {\$ amount}. One year from the first payment, the {payor} shall pay {claimant} {\$ amount}; and one year from the second payment, the {payor} shall pay {claimant} {\$ amount}, for a total of {total amount}.”

STRUCTURED PAYMENT—BY ANNUITY*

Payment through an annuity plan purchased by the claimant, including a reversion to the source of payment upon the death of the claimant. (This language is typically used when the claimant has suffered serious or permanent injuries and is likely to require substantial or long-term medical care. It is often used in conjunction with a special needs trust and/or payment to a guardian.)

“...payable to {guardian of claimant} to be placed in a special needs trust created for the exclusive use and benefit of {claimant}. After payment of statutory attorney fees and costs, the balance shall be used to purchase an appropriate structured financial plan, the proceeds of which shall be deposited into a special needs trust created for the exclusive use and benefit of {claimant}. It is the further intent of the Legislature that upon {claimant’s} death, any funds remaining in the special needs trust after payment of any outstanding Medicaid funds shall revert to the {payor}.”

SPECIAL NEEDS TRUST*

Payment to a special needs trust, including a reversion to the source of payment upon the death of the claimant. (This language can be used in conjunction with payment to a guardian, and ensures that the award will adequately compensate the claimant’s future needs over a period of years while protecting the claimant’s eligibility for Medicaid services.)

“... payable to {guardians of claimant}, parents and legal guardians of {claimant}, to be placed in the special needs trust created for the exclusive use and benefit of {claimant}, a minor, to compensate {claimant} for injuries and damages sustained. Upon the death of {claimant}, the trust balance shall revert to the {payor}.”

***Add Medicaid reimbursement provision from page 6, if applicable.**

C. Senate Local Claim Bill

Florida Senate - 2017

(NP)

CS for SB 40

By the Committee on Judiciary; and Senator Galvano

590-03421-17

201740c1

1 A bill to be entitled
2 An act for the relief of Sean McNamee and his parents,
3 Todd McNamee and Jody McNamee, by the School Board of
4 Hillsborough County; providing for an appropriation to
5 the Sean R. McNamee Irrevocable Trust as compensation
6 for injuries and damages sustained by Sean McNamee as
7 a result of the negligence of employees of the School
8 Board of Hillsborough County; providing a limitation
9 on the payment of attorney fees; providing an
10 effective date.
11
12 WHEREAS, on October 9, 2013, Sean McNamee, a minor student
13 and member of the football team at Wharton High School,
14 participated in a warm-up session as part of organized team
15 activities at the start of football practice, and
16 WHEREAS, during a passing drill, Sean McNamee lost his
17 balance when he came into contact with another player, and while
18 falling to the ground, struck his head on a paint machine used
19 to line the practice field which had been improperly left in the
20 practice area, and
21 WHEREAS, Sean McNamee appeared confused, disoriented, and
22 not "symptom free" while in the training and locker rooms for
23 evaluation and treatment by the school's athletic trainer, and
24 WHEREAS, the coaching and training staff did not properly
25 evaluate or assess Sean McNamee for a concussion or head injury,
26 left him unattended, did not call 911 or summon a physician or
27 ambulance, and did not immediately notify Sean's parents of the
28 possibility that their son had sustained a brain injury, and
29 WHEREAS, the coaching and training staff responsible for

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590-03421-17

201740c1

30 the supervision and welfare of participating student athletes
31 should have known of the severity of the injury experienced by
32 Sean McNamee and were responsible for ensuring he received
33 appropriate and timely evaluation and attention, and

34 WHEREAS, after being left alone for an extended time, Sean
35 McNamee drove himself home, endangering himself and others, and
36 there his sister found him incoherent and acting strangely, and
37 she notified their father, Todd McNamee, who rushed him to the
38 emergency department at Florida Hospital Tampa, and

39 WHEREAS, physicians at Florida Hospital Tampa diagnosed
40 Sean McNamee with a traumatic brain injury from a depressed
41 temporal bone fracture with epidural and subdural hemorrhage
42 which required multiple brain surgeries, including emergency
43 decompression craniotomy, a 9-day induced coma, and
44 reconstruction with a titanium plate permanently inserted into
45 his fractured skull, and

46 WHEREAS, as a result of the traumatic brain injury and
47 delayed treatment, Sean McNamee suffers from permanent and
48 significant changes in his cognitive functions and from an
49 epileptic seizure disorder with breakthrough episodes, and

50 WHEREAS, Sean McNamee and his parents Todd McNamee and Jody
51 McNamee brought suit against the School Board of Hillsborough
52 County in the Circuit Court of the Thirteenth Judicial Circuit
53 in and for Hillsborough County, Case No 14-CA-009239, and the
54 parties entered into a court-ordered mediation on September 14,
55 2015, and

56 WHEREAS, the School Board of Hillsborough County approved a
57 settlement in the amount of \$2 million, paid the statutory limit
58 of \$300,000 under s. 768.28, Florida Statutes, and further

590-03421-17

201740c1

59 agreed to support the passage of this claim bill in the amount
60 of \$1.7 million for the unpaid portion of the settlement, NOW,
61 THEREFORE,
62

63 Be It Enacted by the Legislature of the State of Florida:
64

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

67 Section 2. The School Board of Hillsborough County is
68 authorized and directed to appropriate from funds not otherwise
69 encumbered and to draw a warrant in the sum of \$1.7 million
70 payable to the Sean R. McNamee Irrevocable Trust as compensation
71 for injuries and damages sustained as a result of the negligence
72 of employees of the School Board of Hillsborough County.

73 Section 3. The amount paid by the School Board of
74 Hillsborough County under s. 768.28, Florida Statutes, and the
75 amount awarded under this act are intended to provide the sole
76 compensation for all present and future claims arising out of
77 the factual situation described in this act which resulted in
78 injuries to Sean McNamee and damages to Todd McNamee and Jody
79 McNamee. The total amount paid for attorney fees relating to
80 this claim may not exceed 25 percent of the amount awarded under
81 this act.

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

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D. House Local Claim Bill

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/HB 6515

2018 Legislature

1
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

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F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/HB 6515

2018 Legislature

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

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb6515-02-er

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/HB 6515

2018 Legislature

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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hb6515-02-er

ENROLLED

CS/HB 6515

2018 Legislature

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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.

Page 4 of 4

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hb6515-02-er

E. Proof of Publication for a Local Claim Bill

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA COUNTY OF MIAMI-DADE:

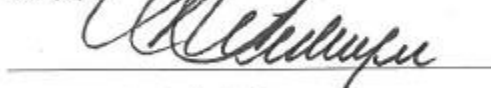
Before the undersigned authority personally appeared
O.V. FERBEYRE, who on oath says that he or she is the
VICE PRESIDENT, Legal Notices of the Miami Daily Business
Review t/k/a Miami Review, a daily (except Saturday, Sunday
and Legal Holidays) newspaper, published at Miami in Miami-Dade
County, Florida; that the attached copy of advertisement,
being a Legal Advertisement of Notice in the matter of

NOTICE OF PUBLICATION RELIEF OF THE ESTATE OF ANDREA NICOLE CASTILLO

in the XXXX Court,
was published in said newspaper in the issues of

09/16/2015

Affiant further says that the said Miami Daily Business
Review is a newspaper published at Miami in said Miami-Dade
County, Florida and that the said newspaper has
heretofore been continuously published in said Miami-Dade County,
Florida, each day (except Saturday, Sunday and Legal Holidays)
and has been entered as second class mail matter at the post
office in Miami in said Miami-Dade County, Florida, for a
period of one year next preceding the first publication of the
attached copy of advertisement; and affiant further says that he or
she has neither paid nor promised any person, firm or corporation
any discount, rebate, commission or refund for the purpose
of securing this advertisement for publication in the said
newspaper.



Sworn to and subscribed before me this

16 day of SEPTEMBER, A.D. 2015



(SEAL)

O.V. FERBEYRE personally known to me



NOTICE OF PUBLICATION

TO WHOM IT MAY CONCERN

Notice is hereby given of intention
to apply to the 2015 Regular Legis-
lative Session or subsequent ses-
sions held in 2015 (or after) of the
State of Florida Legislature for pas-
sage of a bill to provide for the relief
of the Estate of Andrea Nicole
Castillo for fatal injuries sustained
by Andrea Nicole Castillo and dam-
ages sustained by her survivors;
and the death of Andrea Nicole
Castillo arising out of a wrongful
death lawsuit arising from a motor
vehicle accident that occurred on
October 19, 2012 in Miami-Dade
County, Florida and involving CITY
OF HIALEAH as a result of the neg-
ligence of its employee, Raul So-
marrba, and providing an effective
date. The name of the claimant is
Susana Vicana Castillo, as the nat-
ural parent and personal represen-
tative of the Estate of Andrea Nicole
Castillo. The total amount of the
claim sought through the claims bill
process is \$455,000.00 (Four Hun-
dred and Fifty Five Thousand
Dollars) plus interest. Counsel for
Plaintiff, ELISABETH CULMO,
ESQ., Florida Bar Number 016705,
SILVA & SILVA, P.A. 236 Valencia
Avenue, Coral Gables, FL 33134.

A bill to be entitled

An act for the relief of Susana
Castillo, as personal represen-
tative of the Estate of Andrea
Castillo, providing for an appro-
priation to compensate the
Estate of Andrea Castillo for
her death as a result of the neg-
ligence of the City of Hialeah;
providing a limitation on the
payment of fees and costs, pro-
viding that the amounts award-
ed are intended to provide the
sole compensation for all
present and future claims relat-
ed to the wrongful death of
Andrea Castillo; providing an
effective date.

WHEREAS, on October 19,
2012, at about 9:45 p.m., 21-
year-old Andrea Castillo was
traveling as a passenger in a
2012 Jeep Compass being op-

F. Senate General Claim Bill

ENROLLED
2010 Legislature

SB 12

201012er

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An act for the relief of Stephen Hall; providing an appropriation to compensate Stephen Hall for injuries sustained as a result of the negligence of an employee of the Department of Transportation; providing a limitation of the payment of fees and costs; providing an effective date.

WHEREAS, on June 30, 1997, Stephen Hall was a passenger in a vehicle driven by his father, Edward Hall, traveling westbound on State Road 500 in Brevard County, Florida, and

WHEREAS, David Eaker, an employee of the Department of Transportation, was stopped on the north shoulder of State Road 500, headed in the same direction as the Hall vehicle, and

WHEREAS, as the Hall vehicle approached his vehicle, David Eaker pulled into the path of the Hall vehicle, resulting in a collision between the two vehicles, and

WHEREAS, Stephen Hall was injured and was transported by ambulance to Holmes Regional Medical Center in Melbourne, where he was treated for multiple traumatic injuries, including multiple facial fractures and lacerations; multiple intra-oral mucosal lacerations; and orthopedic injuries to his right arm and shoulder, neck, and both knees, and

WHEREAS, as a result of the injuries, Stephen Hall was subjected to multiple surgeries and physical therapy, will likely need additional surgery for the injuries in the future, missed 2 years of school, has suffered from mood swings and depression, and has permanent facial disfigurement and continuing problems as a result of the injuries, and

Page 1 of 3

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201012er

30 WHEREAS, Stephen Hall's medical expenses total \$51,586.81
31 to date, and
32 WHEREAS, David Eaker was determined to be at fault and was
33 charged with failure to yield the right-of-way, and
34 WHEREAS, the Halls filed suit in the Eighteenth Judicial
35 Circuit, in and for Brevard County, against the Department of
36 Transportation in case number 05-2001-CA-006293, and
37 WHEREAS, the parties mediated the case and reached a
38 settlement of all claims, and
39 WHEREAS, the parties entered into a settlement agreement in
40 which the Department of Transportation admitted liability and
41 agreed to the entry of a consent judgment in the amount of
42 \$500,000, and
43 WHEREAS, the Department of Transportation has previously
44 paid \$112,000 to the claimant and agreed to affirmatively
45 support a claim bill in the amount of \$388,000, NOW, THEREFORE,
46
47 Be It Enacted by the Legislature of the State of Florida:
48
49 Section 1. The facts stated in the preamble to this act are
50 found and declared to be true.
51 Section 2. The Executive Office of the Governor is directed
52 to establish spending authority from unappropriated trust fund
53 balances in the Department of Transportation in the amount of
54 \$388,000 to a new category titled "Relief: Stephen Hall" as
55 relief for injuries and damages sustained, which amount includes
56 attorney's fees and costs.
57 Section 3. The Chief Financial Officer is directed to draw
58 a warrant, pursuant to the Stipulated Settlement Agreement

Page 2 of 3

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201012er

59 executed by the Department of Transportation and Stephen Hall,
60 in the sum of \$388,000, upon funds of the Department of
61 Transportation in the State Treasury, and the Chief Financial
62 Officer is directed to pay the same out of funds in the State
63 Treasury.

64 Section 4. Any amount awarded under this act pursuant to
65 the waiver of sovereign immunity permitted under s. 768.28,
66 Florida Statutes, and this award are intended to provide the
67 sole compensation for all present and future claims arising out
68 of the factual situation described in the preamble to this act
69 which resulted in the injury to Stephen Hall. The total amount
70 paid for attorney's fees, lobbying fees, costs, and other
71 similar expenses relating to this claim may not exceed 25
72 percent of the amount awarded under section 2.

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

G. House General Claim Bill

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/CS/HB 6535

2018 Legislature

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2 An act for the relief of the Estate of Dr. Sherrill
3 Lynn Aversa; providing an appropriation to compensate
4 the Estate of Dr. Sherrill Lynn Aversa for Dr.
5 Aversa's death as a result of the negligence of the
6 Department of Transportation; providing a limitation
7 on the payment of fees and costs; providing an
8 effective date.
9
10 WHEREAS, on June 21, 1999, an employee of the Department of
11 Transportation was driving a department vehicle north on
12 Interstate 75 in Hillsborough County, and
13 WHEREAS, on that same day, Dr. Sherrill Lynn Aversa, having
14 completed an interview at the University of South Florida
15 Medical School, was traveling south on Interstate 75, and
16 WHEREAS, according to departmental policy, employees of the
17 department are required to ensure that all items used by the
18 department and stored on a department vehicle are appropriately
19 secured, and
20 WHEREAS, one such item used by the department was a 12-foot
21 extension ladder stored on the roof of the truck driven by the
22 department employee and the employee failed to ensure that the
23 ladder was secured to the vehicle before leaving the
24 department's maintenance yard, and
25 WHEREAS, as the employee traveled north on Interstate 75 in

Page 1 of 4

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hb6535-03-er

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/CS/HB 6535

2018 Legislature

26 | the department vehicle, the extension ladder flew off the roof
27 | into the northbound traffic traveling behind the department
28 | vehicle, and

29 | WHEREAS, the driver of the vehicle traveling behind the
30 | department vehicle swerved to avoid hitting the ladder and, as a
31 | result of the swerving movement, lost control of her vehicle,
32 | veered to the left, crossed the Interstate 75 median, and struck
33 | Dr. Aversa's southbound vehicle, killing Dr. Aversa instantly,
34 | and

35 | WHEREAS, as a result of these events, the Estate of Dr.
36 | Sherrill Lynn Aversa brought suit against the department for its
37 | negligence in causing the death of Dr. Aversa, and

38 | WHEREAS, after 3 years of litigation, the department
39 | admitted liability for the accident and agreed to settle the
40 | case, and

41 | WHEREAS, the parties agreed to a consent judgment in the
42 | amount of \$800,000 solely against the department, with no
43 | finding of comparative negligence against any other party, and

44 | WHEREAS, the department has paid \$150,000 to the Estate of
45 | Dr. Sherrill Lynn Aversa consistent with the statutory limits of
46 | liability set forth in s. 768.28, Florida Statutes, NOW,
47 | THEREFORE,

48 |

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

50 |

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hb6535-03-er

ENROLLED

CS/CS/HB 6535

2018 Legislature

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

53 Section 2. There is appropriated from the State
54 Transportation Trust Fund to the Department of Transportation
55 the sum of \$650,000 for the relief of the Estate of Dr. Sherrill
56 Lynn Aversa for the death of Dr. Sherrill Lynn Aversa, which
57 amount includes attorney fees and costs.

58 Section 3. The Chief Financial Officer is directed to draw
59 a warrant, pursuant to the stipulated settlement agreement
60 executed by the Department of Transportation and the personal
61 representative of the Estate of Dr. Sherrill Lynn Aversa, in the
62 amount of \$650,000 upon funds of the Department of
63 Transportation in the State Treasury, and the Chief Financial
64 Officer is directed to pay the same sum out of such funds in the
65 State Treasury.

66 Section 4. The amount paid by the Department of
67 Transportation pursuant to s. 768.28, Florida Statutes, and the
68 amount awarded under this act are intended to provide the sole
69 compensation for this excess judgment claim and for all other
70 present and future claims arising out of the factual situation
71 described in this act which resulted in the death of Dr.
72 Sherrill Lynn Aversa. Of the amount awarded under this act, the
73 total amount paid for attorney fees may not exceed \$123,500, the
74 total amount paid for lobbying fees may not exceed \$39,000, and
75 no amount may be paid for costs or other similar expenses.

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hb6535-03-er

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

ENROLLED

CS/CS/HB 6535

2018 Legislature

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

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