

CHAPTER 2018-190

Committee Substitute for House Bill No. 6515

An act for the relief of Cathleen Smiley by Brevard County; providing for an appropriation to compensate Cathleen Smiley for personal injuries and damages sustained in an automobile accident caused by a Brevard County employee; providing for payment by Brevard County; providing a limitation on the payment of fees and costs; providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, after these property damage, medical, and injury claims were settled, only \$98,590 remained to resolve the other claims filed in connection with the accident, and

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

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

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

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

WHEREAS, Brevard County has agreed that it would not oppose a claim bill being rendered against the county in this matter and would support same, 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. 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.

Approved by the Governor March 19, 2018.

Filed in Office Secretary of State March 19, 2018.