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An act relating to the Dade County School Board; providing for the relief of Lazaro Gutierrez; providing for an appropriation to compensate him for injuries and damages sustained as a result of the negligence of the Dade County School Board; providing for payment of Medicaid liens prior to disbursement of the warrant; providing an effective date.

WHEREAS, on October 21, 1988, Lazaro Gutierrez went upon the property of Miami Southridge High School to pick up his girlfriend, Laurie Brush, who was returning from her duties as a cheerleader for the Miami Southridge High School football team, and

WHEREAS, while Lazaro Gutierrez waited in the school's student parking lot for his girlfriend's return, he was approached by two men who engaged him in conversation, and

WHEREAS, following this conversation, a Miami Southridge High School student witnessed the men who approached Lazaro Gutierrez inside the Miami Southridge High School student parking lot carrying a gun and displaying the gun to others in the parking lot, and also noticed that there was no security guard or police officer on the premises at that time, and

WHEREAS, upon the return of Laurie Brush, Lazaro Gutierrez and Laurie Brush attempted to leave the school premises in Lazaro Gutierrez's car, and

WHEREAS, as Lazaro Gutierrez attempted to exit the high school's student parking lot, but while he was still on school

1 property, one of the men who had previously engaged him in  
2 conversation in the student parking lot called out to him, and

3 WHEREAS, when Lazaro Gutierrez stopped his car, one of  
4 the men who had previously engaged Lazaro Gutierrez in  
5 conversation pointed a gun at Lazaro Gutierrez and demanded  
6 that he exit his car, and

7 WHEREAS, Lazaro Gutierrez attempted to flee in order to  
8 protect himself and his girlfriend, and

9 WHEREAS, as he was attempting to flee his assailant,  
10 Lazaro Gutierrez was shot in the neck, and

11 WHEREAS, the bullet which wounded Lazaro Gutierrez  
12 fractured Lazaro Gutierrez's C-4 vertebra and partially  
13 severed his spinal cord, rendering him a C-4 quadriplegic, and

14 WHEREAS, at the time they called out to Lazaro  
15 Gutierrez, the assailants were standing on the property of  
16 Miami Southridge High School, just outside the gate to the  
17 student parking lot, and

18 WHEREAS, following extensive litigation and pretrial  
19 proceedings, a jury trial was commenced on January 8, 1996,  
20 and

21 WHEREAS, though Miami Southridge High School is located  
22 in a high-crime area and had experienced numerous incidents of  
23 crime prior to the shooting of Lazaro Gutierrez, by the  
24 admission of the Dade County School Board there was no  
25 security guard in the parking lot at the time of the shooting,  
26 despite the administration's request that a security guard or  
27 police officer be present in the parking lot until all  
28 students had left the premises, and

29 WHEREAS, it was the opinion of the plaintiff's security  
30 expert that the incident which resulted in the shooting of  
31 Lazaro Gutierrez was foreseeable by the Dade County School

1 Board, and that it was likely that the assault against Lazaro  
2 Gutierrez would have been deterred had a security guard or an  
3 off-duty policeman remained on the premises, as requested by  
4 the school's administration, and

5 WHEREAS, a verdict was returned in favor of Lazaro  
6 Gutierrez in the amount of \$12,000,000 and in favor of Lazaro  
7 Gutierrez's mother, Teresa Chirino, in the amount of \$200,000,  
8 and

9 WHEREAS, upon apportionment of negligence, the jury  
10 found the Dade County School Board's percentage of fault to be  
11 85 percent and the assailants' percentage of fault to be 15  
12 percent, and

13 WHEREAS, based upon the jury's allocation of fault, the  
14 court entered a judgment for Lazaro Gutierrez and his mother,  
15 Teresa Chirino, and against the Dade County School Board in  
16 the amount of \$10,970,000, and

17 WHEREAS, the Dade County School Board appealed the  
18 verdict, and

19 WHEREAS, while the appeal was pending, the parties  
20 jointly agreed to settle the case for \$3,173,246 and the Dade  
21 County School Board dismissed its appeal, and

22 WHEREAS, the Dade County School Board has paid Lazaro  
23 Gutierrez \$200,000 pursuant to the statutory limits of  
24 liability set forth in s. 768.28, Florida Statutes, and

25 WHEREAS, the Dade County School Board supports the  
26 passage of a claim bill for Lazaro Gutierrez in the amount of  
27 \$2,973,246, which represents the remainder of the settlement,  
28 NOW, THEREFORE,

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

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

3           Section 2. The Dade County School Board is authorized  
4 and directed to appropriate from funds of the school board not  
5 otherwise appropriated and to draw a warrant in the sum of  
6 \$2,973,246 payable to Lazaro Gutierrez as compensation for  
7 injuries and damages sustained as a result of the negligence  
8 of the Dade County School Board.

9           Section 3. Future damages shall be paid out according  
10 to terms of an annuity.

11           Section 4. The governmental entity responsible for  
12 payment of the warrant shall make payment to the Florida  
13 Agency for Health Care Administration the amount due under  
14 section 409.910, Florida Statutes, prior to the disbursement  
15 of funds to the claimant, except that the amount due to the  
16 agency shall be reduced by the agency's proportionate share of  
17 legal costs and attorney's fees. However, the amount due to  
18 the Agency for Health Care Administration shall be reduced by  
19 no more than 25 percent. The amount due to the agency shall  
20 be calculated based on medical payments paid up to the date  
21 that this bill becomes law.

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

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