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An act relating to Palm Beach County; providing for the relief of Kimberly L. Gonzalez; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of the Palm Beach County Sheriff's Department; providing for payment of Medicaid liens; providing an effective date.

WHEREAS, on June 1, 1992, Kimberly L. Gonzalez was operating a motor vehicle, pulling into the driveway entrance of a gasoline station, when she was struck in the rear of the vehicle by a Deputy Sheriff of the Palm Beach County Sheriff's Department, and

WHEREAS, although the accident was minor, with minimal damage to the vehicle, the injury to Kimberly L. Gonzalez was severe, requiring the removal of two discs at C4-5 and C5-6, which resulted in the fusion of three vertebrae in the neck with the use of an AO plate attached by screws, and

WHEREAS, prior to the accident of June 1, 1992, Kimberly L. Gonzalez had never had any problems or complaints regarding her neck or back, and

WHEREAS, two weeks after the accident of June 1, 1992, Kimberly L. Gonzalez began chiropractic care as a result of experiencing severe neck pain with bilateral radiculopathy into the arm and severe low-back pain, and

WHEREAS, on June 13, 1992, MRI's confirmed herniations in the neck at levels C4-5 and C5-6 and a herniation in the lower back at level L4-5, and

1           WHEREAS, beginning on July 2, 1992, Kimberly L.  
2 Gonzalez was treated by Dr. Ronald Wagner, and

3           WHEREAS, Dr. Wagner's records document the severe neck  
4 pain with bilateral radiculopathy into both arms experienced  
5 by Kimberly L. Gonzalez, along with severe low-back pain with  
6 radiculopathy and weakness into the leg, and

7           WHEREAS, nerve conduction studies were performed on  
8 Kimberly L. Gonzalez on July 2, 1992, by Dr. Melvin M.  
9 Grossman which indicated abnormalities for both upper and  
10 lower extremities, and

11           WHEREAS, on referral of Dr. Wagner, Kimberly L.  
12 Gonzalez was seen by Dr. Fernyhough who, on December 4, 1993,  
13 conducted repeat MRI's on the cervical and lumbar regions of  
14 Kimberly L. Gonzalez, and

15           WHEREAS, the cervical MRI once again confirmed the  
16 herniated discs at levels C4-5 and C5-6, and

17           WHEREAS, prior to surgery, on March 29, 1994, Dr.  
18 Fernyhough had cervical discographs performed on Kimberly L.  
19 Gonzalez, and

20           WHEREAS, the discography was positive for a C5-6  
21 herniation and what was referred to as "an equivocal discogram  
22 at C4-5," and

23           WHEREAS, Dr. Fernyhough's records confirm a plan, as of  
24 April 7, 1994, to proceed with an "AO anterior cervical fusion  
25 C4-5 and C5-6 with AO plate and allograft," and

26           WHEREAS, surgery was performed on Kimberly L. Gonzalez  
27 on April 18, 1994, and

28           WHEREAS, two weeks after surgery, Kimberly L. Gonzalez  
29 had to be readmitted to the hospital for a suspected cervical  
30 spine infection, and

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1           WHEREAS, following surgery, Kimberly L. Gonzalez  
2 continued to have radiating pain into the left shoulder and  
3 arm, although there was overall improvement, and continued to  
4 have pain in the neck and lower back as well, and

5           WHEREAS, Kimberly L. Gonzalez remains with a limited  
6 range of motion in the neck, and with permanent neck pain, and

7           WHEREAS, Kimberly L. Gonzalez will never be able to  
8 have any type of sports or recreational life and will be  
9 constantly reminded of her injuries, and

10           WHEREAS, the injuries sustained by Kimberly L. Gonzalez  
11 as a result of the accident which occurred on June 1, 1992,  
12 formed the basis of legal action against the Palm Beach County  
13 Sheriff in October 1994, and

14           WHEREAS, prior to trial the Palm Beach County Sheriff  
15 admitted liability for the accident, and the sole issue for  
16 the jury was the determination of the injuries caused by the  
17 collision, and

18           WHEREAS, during the trial the only issue raised by the  
19 defense was the question of whether the collision could have  
20 caused the herniated cervical discs in Kimberly L. Gonzalez's  
21 neck, and

22           WHEREAS, on October 11, 1996, a jury awarded Kimberly  
23 L. Gonzalez \$180,710.99, and

24           WHEREAS, on November 15, 1996, the plaintiff's motion  
25 to tax costs was granted and a final judgment was entered for  
26 the plaintiff in the amount of \$195,406.65, and

27           WHEREAS, on November 26, 1996, the Sheriff of Palm  
28 Beach County paid \$100,000 of the final judgment in  
29 satisfaction of the statutory limits of liability set forth in  
30 section 768.28, Florida Statutes, and

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1           WHEREAS, the unpaid amount of the final judgment is  
2 \$95,406.65, NOW, THEREFORE,

3  
4 Be It Enacted by the Legislature of the State of Florida:

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

8           Section 2. The Palm Beach County Sheriff's Department  
9 is authorized and directed to appropriate from funds of the  
10 department not otherwise appropriated and to draw a warrant in  
11 the sum of \$71,790.67 payable to Kimberly L. Gonzalez as  
12 compensation for injuries and damages sustained.

13           Section 3. The claimant and the claimant's attorney  
14 shall make payment to the Florida Agency for Health Care  
15 Administration the amount due under s. 409.910, Florida  
16 Statutes, except that the amount due to the agency shall be  
17 reduced by the agency's proportionate share of legal costs and  
18 attorney's fees. However, the amount due to the Agency for  
19 Health Care Administration shall be reduced by no more than 25  
20 percent. The amount due to the agency shall be calculated  
21 based on medical payments paid up to the date that this bill  
22 becomes law.

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