

By Senator Meadows

30-165-98

1 A bill to be entitled
2 An act relating to Palm Beach County; providing
3 for the relief of Kimberly L. Gonzalez;
4 providing for an appropriation to compensate
5 her for injuries and damages sustained as a
6 result of the negligence of the Palm Beach
7 County Sheriff's Department; providing an
8 effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 WHEREAS, surgery was performed on Kimberly L. Gonzalez
25 on April 18, 1994, and

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

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

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

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

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

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

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

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

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

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

29 WHEREAS, the unpaid amount of the final judgment is
30 \$95,406.65, NOW, THEREFORE,

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

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

5 Section 2. The Palm Beach County Sheriff's Department
6 is authorized and directed to appropriate from funds of the
7 department not otherwise appropriated and to draw a warrant in
8 the sum of \$95,406.65 payable to Kimberly L. Gonzalez as
9 compensation for injuries and damages sustained.

10 Section 3. This act shall take effect upon becoming a
11 law.

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