

By the Committee on Ways and Means and Senator Meadows

301-2156-98

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A bill to be entitled
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
repayment 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,

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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 section 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 act
22 becomes a law.

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

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26 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
27 COMMITTEE SUBSTITUTE FOR
28 SB 58

29 Reduces amount of award from \$95,406.65 to \$71,790.67.

30 Requires the claimant and the claimant's attorney to repay the
31 Medicaid lien.