

By Representative Diaz de la Portilla

1 A bill to be entitled
2 An act relating to the City of Delray Beach;
3 providing for the relief of Jesnor Exanor, as
4 personal representative of the Estate of Nancy
5 Mervil, on behalf of himself and the two minor
6 children of Jesnor Exanor and his deceased
7 wife, Nancy Mervil; authorizing and directing
8 the City of Delray Beach to compensate them for
9 the death of Nancy Mervil due to the negligence
10 of an employee of the city; providing an
11 effective date.

12
13 WHEREAS, at approximately 9:38 p.m. on July 27, 2000,
14 when she was en route to pick up her minor child, Taisha,
15 Nancy Mervil was stopped at the intersection of Linton
16 Boulevard and Catherine Drive in Delray Beach, waiting to turn
17 left, and

18 WHEREAS, an on-duty police officer employed by the City
19 of Delray Beach, while traveling eastbound on the outside lane
20 of Linton Boulevard, received a call for backup to a domestic
21 violence call, and

22 WHEREAS, in response to the call, the officer turned on
23 his vehicle's emergency lights, but failed to turn on his
24 sirens and, while driving his vehicle at a speed of between 85
25 and 90 mph in a 45-mph zone, lost control of his vehicle,
26 struck the rear of Nancy Mervil's vehicle, and caused her
27 vehicle to roll over, become airborne, and crash into the hood
28 of another vehicle, and

29 WHEREAS, Nancy Mervil was killed in the accident, and

30 WHEREAS, at the time of her death, Nancy Mervil was 24
31 years old, and she and her husband, Jesnor Exanor, had two

1 minor children, Taisha Exanor, born December 2, 1999, and
2 Orlena Poulard, born November 2, 1993, and

3 WHEREAS, according to the investigative homicide report
4 completed by a law enforcement investigator with the Florida
5 Highway Patrol, the officer who was involved in the accident
6 violated s. 316.072(5)(c), Florida Statutes, by failing to
7 drive with due regard for the safety of others, and

8 WHEREAS, the investigation also suggested that the City
9 of Delray Beach had failed to properly maintain the police
10 officer's vehicle at the time of the collision in question,
11 thereby contributing to this unfortunate accident, and

12 WHEREAS, Jesnor Exanor, individually, on behalf of the
13 two minor children, and as personal representative of his
14 wife's estate, filed suit against the City of Delray Beach,
15 and

16 WHEREAS, in its answer to the complaint, the city
17 admitted that the police officer negligently caused Nancy
18 Mervil's death, and

19 WHEREAS, the economic damages in this case are
20 substantial, having been assessed at \$823,000, based on the
21 assumption that Nancy Mervil would have continued to be
22 employed as a nurse's aide, and, alternatively, having been
23 assessed at \$1,100,000, based on the assumption that she would
24 have completed nurse's training and would have been employed
25 as a nurse, as she had planned, and

26 WHEREAS, subsequent to the filing of the complaint in
27 this matter, the parties agreed to and conducted a mediation
28 that resulted in an agreement to settle with the City of
29 Delray Beach for a cash payment of \$195,000 plus \$1,305,000,
30 part of which would be used to purchase annuities, and
31

1 WHEREAS, the City of Delray Beach has made the cash
2 payment of \$195,000 to Jesnor Exanor in accordance with the
3 terms of the settlement agreement, and

4 WHEREAS, it has been suggested that 50 percent of the
5 settlement proceeds be distributed to Jesnor Exanor and 25
6 percent to each minor child, with other terms of the annuities
7 to be determined at the time of passage of a claim bill
8 allowing the city to reimburse the claimants in an amount
9 greater than that allowed by s. 768.28, Florida Statutes, NOW,
10 THEREFORE,

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. The facts stated in the preamble to this
15 act are found and declared to be true.

16 Section 2. The City of Delray Beach is authorized and
17 directed to appropriate from funds of the city not otherwise
18 appropriated and to draw warrants in the total amount of
19 \$1,305,000 to Jesnor Exanor and his minor children, Taisha
20 Exanor and Orlena Poulard, as compensation for the death of
21 Nancy Mervil, wife of Jesnor Exanor and mother of the minor
22 children, Taisha Exanor and Orlena Poulard, due to the
23 negligence of an employee of the City of Delray Beach. After
24 payment of statutory attorney's fees and costs and authorized
25 expenses, the proceeds recovered under this act shall be used
26 to purchase annuities for the benefit of Jesnor Exanor and his
27 minor children, Taisha Exanor and Orlena Poulard.

28 Section 3. This act shall take effect upon becoming a
29 law.