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2 An act relating to the City of Delray Beach;  
3 providing for the relief of Jesner Exanor, as  
4 personal representative of the Estate of Nancy  
5 Mervil, on behalf of himself and the two minor  
6 children of his deceased wife, Nancy Mervil;  
7 authorizing and directing the City of Delray  
8 Beach to compensate them for the death of Nancy  
9 Mervil due to the negligence of an employee of  
10 the city; providing terms and conditions  
11 regarding the payment and use of such  
12 compensation; providing an effective date.  
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14 WHEREAS, at approximately 9:38 p.m. on July 27, 2000,  
15 when she was en route to pick up her minor child, Taisha,  
16 Nancy Mervil was stopped at the intersection of Linton  
17 Boulevard and Catherine Drive in Delray Beach, waiting to turn  
18 left, and

19 WHEREAS, an on-duty police officer employed by the City  
20 of Delray Beach, while responding to a call regarding a  
21 domestic disturbance, was traveling eastbound in the outside  
22 lane of Linton Boulevard, and

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

30 WHEREAS, Nancy Mervil was killed in the accident, and  
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1           WHEREAS, at the time of her death, Nancy Mervil was 24  
2 years old, was married to Jesner Exanor, and was the mother of  
3 two minor children, Taisha Exanor, born December 2, 1999, and  
4 Orlens Poulard, born November 2, 1993, and

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

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

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

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

21           WHEREAS, the economic damages in this case are  
22 substantial, having been assessed at \$823,000, based on the  
23 assumption that Nancy Mervil would have been employed as a  
24 home health aide, and, alternatively, having been assessed at  
25 \$1,101,000, based on the assumption that she would have  
26 completed training as a nursing assistant and would have been  
27 employed as a nursing assistant, as she had planned, and

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

3 WHEREAS, the City of Delray Beach has made the cash  
4 payment of \$195,000 in accordance with the terms of the  
5 settlement agreement, and

6 WHEREAS, it has been stated that 40 percent of the  
7 settlement proceeds will be distributed to Jesner Exanor and  
8 30 percent to each minor child, with other terms of the  
9 annuities to be determined at the time of passage of a claim  
10 bill allowing the city to reimburse the claimants in an amount  
11 greater than that allowed by section 768.28, Florida Statutes,  
12 NOW, THEREFORE,

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

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

18 Section 2. The City of Delray Beach is authorized and  
19 directed to appropriate from funds of the city not otherwise  
20 appropriated and to draw warrants in the total amount of  
21 \$1,305,000 payable to Jesner Exanor individually, to Jesner  
22 Exanor as legal guardian of minor child Taisha Exanor, and to  
23 Gertha Desir as legal guardian of minor child Orlens Poulard,  
24 in the ratios of 40 percent, 30 percent, and 30 percent  
25 respectively, as compensation for the death of Nancy Mervil,  
26 wife of Jesner Exanor and mother of the minor children, due to  
27 the negligence of an employee of the City of Delray Beach.  
28 After payment of statutory attorney's fees and costs and  
29 authorized expenses, the proceeds recovered under this act  
30 shall be used to purchase appropriate structured settlement  
31 annuities for the benefit of Jesner Exanor and the minor

1 children, Taisha Exanor and Orlens Poulard. Appropriate  
2 structured settlement annuities for the benefit of the minor  
3 children must be purchased no later than January 1, 2003.  
4 Amounts payable under this act on behalf of a minor child, as  
5 well as proceeds from appropriate structured settlement  
6 annuities purchased under this act on behalf of a minor child  
7 which are paid while the child is a minor, must be placed in  
8 the guardianship account of the minor child, to be expended  
9 under supervision of the circuit court as long as the child is  
10 a minor.

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

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