

1 A bill to be entitled
2 An act for the relief of Luis Diaz; providing an
3 appropriation to compensate Luis Diaz for injuries and
4 damages sustained as a result of his wrongful
5 imprisonment; directing the Chief Financial Officer to
6 draw a warrant; providing conditions for payment;
7 providing a limitation on the payment of attorney's fees,
8 lobbying fees, costs, and other similar expenses;
9 providing an effective date.

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11 WHEREAS, in the late 1970s, multiple rapes and assaults
12 were committed in Miami by an individual dubbed the "Bird Road
13 Rapist" by the press, and

14 WHEREAS, the Miami-Dade Police Department arrested Luis
15 Diaz on August 29, 1979, in connection with the Bird Road rapes,
16 and

17 WHEREAS, at the time of his arrest, Luis Diaz had no prior
18 criminal record and was married with three young children, and

19 WHEREAS, Luis Diaz was convicted in the Circuit Court in
20 and for Miami-Dade County, Florida, of seven attacks committed
21 by the Bird Road Rapist and was sentenced to three consecutive
22 life sentences in prison, and

23 WHEREAS, two of Luis Diaz's convictions were vacated in
24 2002 after two victims came forward and recanted their
25 identification of Luis Diaz as their attacker, and

26 WHEREAS, Luis Diaz's remaining convictions were vacated in
27 August 2005 after DNA evidence conclusively proved that he was
28 not the Bird Road Rapist, and

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29 WHEREAS, Luis Diaz was held in custody continuously from
 30 the date of his arrest on August 29, 1979, until August 3, 2005,
 31 and

32 WHEREAS, Luis Diaz has always maintained his innocence, and

33 WHEREAS, as a result of his wrongful conviction, Luis Diaz
 34 suffered loss of income, endured indignities, embarrassment, and
 35 injury to his reputation, and sustained severe mental anguish,
 36 emotional distress, loss of personal freedom, loss of civil
 37 rights, including the right to vote and participate in
 38 government, loss of the right to pursue educational
 39 opportunities, loss of family life, loss of individual liberty,
 40 including the right to choose his diet and his daily schedule,
 41 loss of freedom of expression, and loss of the freedom to
 42 determine how he would spend his recreational time, and

43 WHEREAS, Luis Diaz has filed a lawsuit against Miami-Dade
 44 County and the police officers involved in his arrest, seeking
 45 compensation for his wrongful imprisonment, and

46 WHEREAS, considering the totality of the circumstances,
 47 equity and justice dictate that this miscarriage of justice
 48 should be addressed by the Legislature of the State of Florida,
 49 NOW, THEREFORE,

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

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

55 Section 2. There is appropriated from the General Revenue
 56 Fund the sum of \$5,000,000 to Luis Diaz, under the conditions

57 provided in this act, as compensation for injuries and damages
58 sustained.

59 Section 3. The Chief Financial Officer is directed to draw
60 a warrant in favor of Luis Diaz in the sum of \$5,000,000 out of
61 funds in the State Treasury and pay the same out of such funds
62 in the State Treasury upon delivery by Luis Diaz to the Chief
63 Financial Officer, the Department of Financial Services, the
64 President of the Senate, and the Speaker of the House of
65 Representatives of the following:

66 (1) An executed release and waiver on behalf of Luis Diaz
67 and his heirs, successors, and assigns forever releasing the
68 State of Florida and any agency, instrumentality, officer,
69 employee, or political subdivision thereof, or any other entity
70 subject to the provisions of s. 768.28, Florida Statutes, from
71 all present or future claims or declaratory relief that the
72 claimant or his heirs, successors, or assigns may have against
73 such enumerated entities and arising out of the factual
74 situation in connection with the convictions for which
75 compensation is awarded. However, declaratory action to obtain
76 judicial expungement of Luis Diaz's criminal record as otherwise
77 provided by law is not prohibited by this act; and

78 (2) An order from the court having jurisdiction over the
79 lawsuit filed by Luis Diaz dismissing the claim with prejudice.

80 Section 4. This act does not constitute a waiver of any
81 defense of sovereign immunity or an increase in the limits of
82 liability on behalf of the state or any person or entity subject
83 to the provisions of s. 768.28, Florida Statutes, or any other
84 law.

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85 Section 5. This award is intended to provide the sole
86 compensation for all present and future claims arising out of
87 the factual situation in connection with Luis Diaz's conviction
88 and imprisonment. The total amount paid for attorney's fees,
89 lobbying fees, costs, or other similar expenses may not exceed
90 25 percent of the amount awarded under the act.

91 Section 6. This act shall take effect upon becoming a law.