

By Senator Villalobos

38-00187-08

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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 fees and costs;
8 providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

52 Section 2. The sum of \$5 million is appropriated out of
53 funds in the State Treasury to compensate Luis Diaz for injuries
54 and damages sustained.

55 Section 3. The Chief Financial Officer is directed to draw
56 a warrant in favor of Luis Diaz in the sum of \$5 million out of
57 funds in the State Treasury and pay the same out of such funds in
58 the State Treasury upon delivery by Luis Diaz to the Chief

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59 Financial Officer, the Department of Financial Services, the
60 President of the Senate, and the Speaker of the House of
61 Representatives of the following:

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

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

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

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

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