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1                   A bill to be entitled  
2           An act for the relief of Eric Brody by the Broward  
3           County Sheriff's Office; providing for an  
4           appropriation to compensate Eric Brody for injuries  
5           sustained as a result of the negligence of the Broward  
6           County Sheriff's Office; providing a limitation on the  
7           payment of fees and costs related to the claim against  
8           the Broward County Sheriff's Office; providing  
9           legislative intent to prohibit a waiver of lien  
10          interests held by the state; requiring that the  
11          guardianship pay any such liens before distributing  
12          funds to the claimant; providing an effective date.

13  
14          WHEREAS, on the evening of March 3, 1998, 18-year-old Eric  
15          Brody, a college-bound high school senior, was returning home  
16          from his part-time job at the Sawgrass Mills Sports Authority.  
17          Eric was driving his 1982 AMC Concord eastbound on Oakland Park  
18          Boulevard in Sunrise, Florida, and

19          WHEREAS, that same evening, Broward County Sheriff's Deputy  
20          Christopher Thieman, who had been visiting his girlfriend and  
21          was running late for duty, was driving his Broward County  
22          Sheriff's Office cruiser westbound on Oakland Park Boulevard. At  
23          the time he left his girlfriend's house, Deputy Thieman had less  
24          than 15 minutes to travel 11 miles to make roll call on time,  
25          which was mandatory pursuant to sheriff's office policy and  
26          procedure, and

27          WHEREAS, at approximately 10:36 p.m., Eric Brody began to  
28          make a left-hand turn into his neighborhood at the intersection  
29          of N.W. 117th Avenue and Oakland Park Boulevard. Deputy Thieman,

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30 who was driving in excess of the 45-mile-per-hour posted speed  
31 limit and traveling in the opposite direction, was not within  
32 the intersection and was more than 430 feet away from Eric  
33 Brody's car when Eric Brody began the turn. Eric Brody's car  
34 cleared two of the three westbound lanes on Oakland Park  
35 Boulevard, and

36 WHEREAS, Deputy Thieman, who was traveling in the inside  
37 westbound lane closest to the median, suddenly and inexplicably  
38 steered his vehicle to the right, across the center lane and  
39 into the outside lane, where the front end of his car struck the  
40 passenger side of Eric's car with great force, just behind the  
41 right front wheel and near the passenger door, and

42 WHEREAS, Deputy Thieman testified at trial that although he  
43 knew that the posted speed limit was 45 miles per hour, he  
44 refused to provide an estimate as to how fast he was traveling  
45 before the crash, and

46 WHEREAS, despite the appearance of a conflict of interest,  
47 the Broward County Sheriff's Office chose to conduct the  
48 official crash investigation instead of deferring to the City of  
49 Sunrise Police Department, which also had jurisdiction, or the  
50 Florida Highway Patrol (FHP), which often investigates motor  
51 vehicle collisions involving non-FHP law enforcement officers so  
52 as to avoid any possible conflict of interest, and

53 WHEREAS, in the course of the investigation, the Broward  
54 County Sheriff's Office lost key evidence from the crashed  
55 vehicles and did not report any witnesses even though the first  
56 responders to the crash scene were police officers from the City  
57 of Sunrise, and

58 WHEREAS, the Broward County detective who led the crash

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59 investigation entered inaccurate data into a computerized  
60 accident reconstruction program which skewed the speed that  
61 Deputy Thieman was driving, but, nevertheless, determined that  
62 he was still traveling well over the speed limit, and

63 WHEREAS, accident reconstruction experts called by both  
64 parties testified that Deputy Thieman was driving at least 60 to  
65 more than 70 miles per hour when his vehicle slammed into the  
66 passenger side of Eric Brody's car, and

67 WHEREAS, Eric Brody was found unconscious 6 minutes later  
68 by paramedics, his head and upper torso leaning upright and  
69 toward the passenger-side door. Although he was out of his  
70 shoulder harness and seat belt by the time paramedics arrived,  
71 the Brody's attorney proved that Eric was wearing his seat belt  
72 and that the 16-year-old seat belt buckle failed during the  
73 crash. Photographs taken at the scene by the sheriff's office  
74 investigators showed the belt to be fully spooled out because  
75 the retractor was jammed, with the belt dangling outside the  
76 vehicle from the driver-side door, providing proof that Eric  
77 Brody was wearing his seat belt and shoulder harness during the  
78 crash, and

79 WHEREAS, accident reconstruction and human factor experts  
80 called by both the plaintiff and the defendant agreed that if  
81 Deputy Thieman been driving at the speed limit, Eric Brody would  
82 have easily completed his turn, and

83 WHEREAS, the experts also agreed that if Deputy Thieman  
84 simply remained within his lane of travel, regardless of his  
85 speed, there would not have been a collision, and

86 WHEREAS, in order to investigate the seat-belt defense,  
87 experts for Eric Brody recreated the accident using an exact

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88 car-to-car crash test that was conducted by a nationally  
89 recognized crash test facility. The crash test involved vehicles  
90 identical to the Brody and Thieman vehicles, a fully  
91 instrumented hybrid III dummy, and high-speed action cameras,  
92 and

93 WHEREAS, the crash test proved that Eric Brody was wearing  
94 his restraint system during the crash because the seat-belted  
95 test dummy struck its head on the passenger door within inches  
96 of where Eric Brody's head actually struck the passenger door,  
97 and

98 WHEREAS, when Eric Brody's head struck the passenger door  
99 of his vehicle, the door crushed inward from the force of the  
100 impact with the police cruiser while at the same time his upper  
101 torso was moving toward the point of impact and the passenger  
102 door. The impact resulted in skull fractures and massive brain  
103 sheering, bleeding, bruising, and swelling, and

104 WHEREAS, Eric Brody was airlifted by helicopter to Broward  
105 General Hospital where he was placed on a ventilator and  
106 underwent an emergency craniotomy and neurosurgery. He began to  
107 recover from a deep coma more than 7 months after his injury and  
108 underwent extensive rehabilitation, having to relearn how to  
109 walk, talk, feed himself, and perform other basic functions, and

110 WHEREAS, Eric Brody, who is now 30 years old, has been left  
111 profoundly brain-injured, lives with his parents, and is mostly  
112 isolated from his former friends and other young people his age.  
113 His speech is barely intelligible and he has significant  
114 cognitive dysfunction, judgment impairment, memory loss, and  
115 neuro-visual disabilities. Eric Brody also has impaired fine and  
116 gross motor skills and very poor balance. Although Eric is able

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117 to use a walker for short distances, he mostly uses a wheelchair  
118 to get around. The entire left side of his body is partially  
119 paralyzed and spastic, and he needs help with many of his daily  
120 functions. Eric Brody is permanently and totally disabled;  
121 however, he has a normal life expectancy, and

122 WHEREAS, the cost of Eric Brody's life care plan is nearly  
123 \$10 million, and he has been left totally dependent on public  
124 health programs and taxpayer assistance since 1998, and

125 WHEREAS, the Broward County Sheriff's Office was insured  
126 for this claim through Ranger Insurance Company and paid more  
127 than \$400,000 for liability coverage that has a policy limit of  
128 \$3 million, and

129 WHEREAS, Ranger Insurance Company ignored seven demand  
130 letters and other attempts by the Brodys to settle the case for  
131 the policy limit, and instead chose to wait for more than 7  
132 years following the date of the accident until the day the trial  
133 judge specially set the case for trial before offering to pay  
134 the policy limit. By that time nearly \$750,000 had been spent  
135 preparing the case for trial, and Eric Brody had past due bills  
136 and liens of nearly \$1.5 million for health and rehabilitative  
137 care services. Because so much money had been spent preparing  
138 the case for trial, the exorbitant costs of Eric Brody's  
139 medical bills and liens, and the costs of future care continued  
140 to escalate, settlement for the policy limit was no longer  
141 feasible, and

142 WHEREAS, on December 1, 2005, after a 2-month trial, a  
143 Broward County jury consisting of three men and three women  
144 found that that Deputy Thieman and the Broward County Sheriff's  
145 Office were 100 percent negligent, and Eric Brody was not

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146 comparatively negligent, and

147 WHEREAS, the jury found Eric Brody's damages to be  
148 \$30,609,298, including a determination that his past and future  
149 care and other economic damages were \$11,326,216, and

150 WHEREAS, final judgment was entered for \$30,609,298, and  
151 the court entered a cost judgment for \$270,372.30, and

152 WHEREAS, the court denied the Broward County Sheriff's  
153 Office posttrial motions for judgment notwithstanding the  
154 verdict, new trial, or remittitur, and

155 WHEREAS, the insurer of the Broward County Sheriff's Office  
156 retained appellate counsel and elected to appeal the final  
157 judgment but not the cost judgment, and

158 WHEREAS, the Fourth District Court of Appeal upheld the  
159 verdict in the fall of 2007, and

160 WHEREAS, the insurer of the Broward County Sheriff's Office  
161 subsequently petitioned the Florida Supreme Court to seek  
162 another appeal, but the petition was denied in April of 2008,  
163 and

164 WHEREAS, all legal remedies for all parties involved have  
165 been exhausted and this case is ripe for a claim bill, and

166 WHEREAS, the Broward County Sheriff's Office has paid  
167 \$200,000 pursuant to s. 768.28, Florida Statutes, and the amount  
168 of \$12 million is sought through the submission of a claim bill  
169 to the Legislature, NOW, THEREFORE,

170

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

172

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

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175           Section 2. The Sheriff of Broward County is authorized and  
176 directed to appropriate from funds of the Broward County  
177 Sheriff's Office not otherwise appropriated and to draw a  
178 warrant payable to Eric Brody in the sum of \$12 million as  
179 compensation for injuries and damages sustained as a result of  
180 the negligence of the Broward County Sheriff's Office.

181           Section 3. The amount paid by the Broward County Sheriff's  
182 Office pursuant to s. 768.28, Florida Statutes, and the amount  
183 awarded under this act are intended to provide the sole  
184 compensation for all claims arising out of the facts described  
185 in this act which resulted in the injuries to Eric Brody. The  
186 total amount of attorney's fees, lobbying fees, costs, and other  
187 similar expenses may not exceed 25 percent of the total amount  
188 awarded under sections 2 and 3 of this act and shall be paid  
189 exclusively to the attorneys and lobbyists currently retained by  
190 the claimants at the time this act becomes a law and for their  
191 benefit only.

192           Section 4. It is the intent of the Legislature that all  
193 lien interests held by the state resulting from the treatment  
194 and care of Eric Brody for the events described in the preamble  
195 of this act are not waived and extinguished, and the claimant's  
196 guardianship is not relieved of any obligation to reimburse  
197 Medicaid, Medicare, or the Agency for Health Care Administration  
198 for such expenses pursuant to s. 409.910, Florida Statutes. The  
199 claimant's guardianship shall pay the amount due under s.  
200 409.910, Florida Statutes, prior to distributing any funds to  
201 the claimant.

202           Section 5. This act shall take effect upon becoming a law.