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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; authorizing the Sheriff of
7 Broward County, in lieu of payment, to execute to Eric
8 Brody and his legal guardians an assignment of all
9 claims that the Broward County Sheriff's Office has
10 against its insurer arising out of the insurer's
11 handling of the claim against the sheriff's office;
12 clarifying that such assignment does not impair the
13 ability or right of the assignees to pursue the final
14 judgment and cost judgment against the insurer;
15 providing a limitation on the payment of fees and
16 costs related to the claim against the Broward County
17 Sheriff's Office and an exception to that limitation
18 as to any assigned claims brought against the insurer;
19 providing an effective date.

20
21 WHEREAS, on the evening of March 3, 1998, 18-year-old Eric
22 Brody, a college-bound high school senior, was returning home
23 from his part-time job at the Sawgrass Mills Sports Authority.
24 Eric was driving his 1982 AMC Concord eastbound on Oakland Park
25 Boulevard in Sunrise, Florida, and

26 WHEREAS, that same evening, Broward County Sheriff's Deputy
27 Christopher Thieman, who had been visiting his girlfriend and
28 was running late for duty, was driving his Broward County

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29 Sheriff's Office cruiser westbound on Oakland Park Boulevard. At
30 the time he left his girlfriend's house, Deputy Thieman had less
31 than 15 minutes to travel 11 miles to make roll call on time,
32 which was mandatory pursuant to sheriff's office policy and
33 procedure, and

34 WHEREAS, at approximately 10:36 p.m., Eric Brody began to
35 make a left-hand turn into his neighborhood at the intersection
36 of N.W. 117th Avenue and Oakland Park Boulevard. Deputy Thieman,
37 who was driving in excess of the 45-mile-per-hour posted speed
38 limit and traveling in the opposite direction, was not within
39 the intersection and was more than 430 feet away from Eric
40 Brody's car when Eric Brody began the turn. Eric Brody's car
41 cleared two of the three westbound lanes on Oakland Park
42 Boulevard, and

43 WHEREAS, Deputy Thieman, who was traveling in the inside
44 westbound lane closest to the median, suddenly and inexplicably
45 steered his vehicle to the right, across the center lane and
46 into the outside lane, where the front end of his car struck the
47 passenger side of Eric's car with great force, just behind the
48 right front wheel and near the passenger door, and

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

53 WHEREAS, despite the appearance of a conflict of interest,
54 the Broward County Sheriff's Office chose to conduct the
55 official crash investigation instead of deferring to the City of
56 Sunrise Police Department, which also had jurisdiction, or the

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57 Florida Highway Patrol (FHP), which often investigates motor
58 vehicle collisions involving non-FHP law enforcement officers so
59 as to avoid any possible conflict of interest, and

60 WHEREAS, in the course of the investigation, the Broward
61 County Sheriff's Office lost key evidence from the crashed
62 vehicles and did not report any witnesses even though the first
63 responders to the crash scene were police officers from the City
64 of Sunrise, and

65 WHEREAS, the Broward County detective who led the crash
66 investigation entered inaccurate data into a computerized
67 accident reconstruction program which skewed the speed that
68 Deputy Thieman was driving, but, nevertheless, determined that
69 he was still traveling well over the speed limit, and

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

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

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85 | crash, and

86 | WHEREAS, accident reconstruction and human factor experts
87 | called by both the plaintiff and the defendant agreed that if
88 | Deputy Thieman had been driving at the speed limit, Eric Brody
89 | would have easily completed his turn, and

90 | WHEREAS, the experts also agreed that if Deputy Thieman had
91 | simply remained within his lane of travel, regardless of his
92 | speed, there would not have been a collision, and

93 | WHEREAS, in order to investigate the seat-belt defense,
94 | experts for Eric Brody recreated the accident using an exact
95 | car-to-car crash test that was conducted by a nationally
96 | recognized crash test facility. The crash test involved vehicles
97 | identical to the Brody and Thieman vehicles, a fully
98 | instrumented hybrid III dummy, and high-speed action cameras,
99 | and

100 | WHEREAS, the crash test proved that Eric Brody was wearing
101 | his restraint system during the crash because the seat-belted
102 | test dummy struck its head on the passenger door within inches
103 | of where Eric Brody's head actually struck the passenger door,
104 | and

105 | WHEREAS, when Eric Brody's head struck the passenger door
106 | of his vehicle, the door crushed inward from the force of the
107 | impact with the police cruiser while at the same time his upper
108 | torso was moving toward the point of impact and the passenger
109 | door. The impact resulted in skull fractures and massive brain
110 | sheering, bleeding, bruising, and swelling, and

111 | WHEREAS, Eric Brody was airlifted by helicopter to Broward
112 | General Hospital where he was placed on a ventilator and

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113 | underwent an emergency craniotomy and neurosurgery. He began to
114 | recover from a deep coma more than 7 months after his injury and
115 | underwent extensive rehabilitation, having to relearn how to
116 | walk, talk, feed himself, and perform other basic functions, and

117 | WHEREAS, Eric Brody, who is now 32 years old, has been left
118 | profoundly brain-injured, lives with his parents, and is mostly
119 | isolated from his former friends and other young people his age.
120 | His speech is barely intelligible and he has significant
121 | cognitive dysfunction, judgment impairment, memory loss, and
122 | neuro-visual disabilities. Eric Brody also has impaired fine and
123 | gross motor skills and very poor balance. Although Eric is able
124 | to use a walker for short distances, he mostly uses a wheelchair
125 | to get around. The entire left side of his body is partially
126 | paralyzed and spastic, and he needs help with many of his daily
127 | functions. Eric Brody is permanently and totally disabled;
128 | however, he has a normal life expectancy, and

129 | WHEREAS, the cost of Eric Brody's life care plan is nearly
130 | \$10 million, and he has been left totally dependent on public
131 | health programs and taxpayer assistance since 1998, and

132 | WHEREAS, the Broward County Sheriff's Office was insured
133 | for this claim through Ranger Insurance Company and paid a
134 | premium of more than \$400,000 for liability coverage, and

135 | WHEREAS, on December 1, 2005, after a 2-month trial, a
136 | Broward County jury consisting of three men and three women
137 | found that that Deputy Thieman and the Broward County Sheriff's
138 | Office were 100 percent negligent, and Eric Brody was not
139 | comparatively negligent, and

140 | WHEREAS, the jury found Eric Brody's damages to be

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141 \$30,609,298, including a determination that his past and future
 142 care and other economic damages were \$11,326,216, and

143 WHEREAS, final judgment was entered for \$30,609,298, and
 144 the court entered a cost judgment for \$270,372.30, for a total
 145 of \$30,879,670.30, and

146 WHEREAS, the court denied the Broward County Sheriff's
 147 Office posttrial motions for judgment notwithstanding the
 148 verdict, new trial, or remittitur, and

149 WHEREAS, the insurer of the Broward County Sheriff's Office
 150 retained appellate counsel and elected to appeal the final
 151 judgment but not the cost judgment, and

152 WHEREAS, the Fourth District Court of Appeal upheld the
 153 verdict in the fall of 2007, and

154 WHEREAS, the insurer of the Broward County Sheriff's Office
 155 subsequently petitioned the Florida Supreme Court to seek
 156 another appeal, but the petition was denied in April of 2008,
 157 and

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

160 WHEREAS, the Broward County Sheriff's Office has paid
 161 \$200,000 pursuant to s. 768.28, Florida Statutes, and the final
 162 judgment and cost judgment remainder in the amount of
 163 \$30,679,670.30 is sought through the submission of a claim bill
 164 to the Legislature, NOW, THEREFORE,

165

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

167

168 Section 1. The facts stated in the preamble to this act

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169 are found and declared to be true.

170 Section 2. The Sheriff of Broward County is authorized and
171 directed to appropriate from funds of the Broward County
172 Sheriff's Office not otherwise appropriated and to draw a
173 warrant payable to Eric Brody in the sum of \$30,679,670.30 in
174 accordance with the final judgment and cost judgment as provided
175 for in the preamble of this act as compensation for injuries and
176 damages sustained as a result of the negligence of the Broward
177 County Sheriff's Office.

178 Section 3. The amount paid by the Broward County Sheriff's
179 Office pursuant to s. 768.28, Florida Statutes, and the amount
180 awarded under this act are intended to provide the sole
181 compensation for all claims against the Broward County Sheriff's
182 Office arising out of the facts described in this act which
183 resulted in the injuries to Eric Brody. The total amount of
184 attorney's fees, lobbying fees, costs, and other similar
185 expenses relating to the claim against the Broward County
186 Sheriff's Office may not exceed 25 percent of the total amount
187 awarded under section 2 of this act.

188 Section 4. It is the intent of the Legislature that the
189 lien interests held by the state resulting from the treatment
190 and care of Eric Brody for the injuries caused by the events
191 described in the preamble of this act are not waived or
192 extinguished, and the claimant's guardianship shall reimburse
193 the state the amount that is in exact proportion to the
194 percentage of Eric Brody's claims bill recovery based on the
195 full amount of his damages, which is the sum of \$30,679,670.30
196 and all amounts that remain unpaid in accordance with the final

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197 judgment and cost judgment, as provided for in the preamble and
198 section 2 of this act.

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