

By the Committee on Community Affairs; and Senator Garcia

578-03239-16

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1 A bill to be entitled

2 An act for the relief of Susana Castillo, as personal
3 representative of the Estate of Andrea Castillo;
4 providing for an appropriation to compensate the
5 Estate of Andrea Castillo for her death as a result of
6 the negligence of the City of Hialeah; providing a
7 limitation on the payment of fees and costs; providing
8 that the amounts awarded are intended to provide the
9 sole compensation for all present and future claims
10 related to the wrongful death of Andrea Castillo;
11 providing an effective date.

12
13 WHEREAS, on October 19, 2012, at about 9:45 p.m., 21-year-
14 old Andrea Castillo was traveling as a passenger in a 2012 Jeep
15 Compass being operated by her boyfriend, Marco Barrios, at or
16 near the intersection of E 49th Street and E 9th Court in the
17 City of Hialeah, and

18 WHEREAS, at the same time Officer Raul Somarriba, an on-duty
19 patrolman with the Hialeah Police Department was traveling
20 between 20 and 22 miles per hour over the posted speed limit of
21 40 miles per hour eastbound on E 49th Street toward the
22 intersection of E 9th Court in an unmarked patrol car, and

23 WHEREAS, Officer Somarriba activated the emergency lights,
24 but he did not activate the emergency siren, and

25 WHEREAS, Officer Somarriba does not recall being in pursuit
26 of any suspect or vehicle, and records do not indicate that he
27 contacted dispatch communications, and,

28 WHEREAS, by traveling at least 20 miles per hour over the
29 posted speed limit and by failing to activate his emergency
30 siren and to contact dispatch communications, Officer Somarriba
31 violated General Order No. 22.04 of the City of Hialeah Police
32 Department Emergency Vehicle Operation and Response Code

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33 Protocol and General Order No. 17.06 of the City of Hialeah
34 Police Department Vehicle Pursuit Protocol, and

35 WHEREAS, Officer Somarriba, while traveling significantly
36 over the speed limit and without his emergency siren activated,
37 crashed into the driver's side of the Jeep Compass driven by
38 Marco Barrios while the Jeep was crossing the eastbound lanes of
39 E 49th Street, and

40 WHEREAS, the severe impact of the collision forced the Jeep
41 to flip repeatedly and collide with several vehicles parked at
42 an adjacent car dealership before coming to rest on its side,
43 and

44 WHEREAS, the force of the crash was so great that Marco
45 Barrios was gravely injured and Andrea Castillo was ejected from
46 her seat and landed in the back hatch area of the vehicle with
47 massive blunt trauma injuries to her head and torso, and

48 WHEREAS, Andrea Castillo died as a result of her injuries
49 within days of the crash, and

50 WHEREAS, at the conclusion of the traffic homicide
51 investigation into the death of Andrea Castillo and a companion
52 investigation by the state attorney, the Hialeah Police
53 Department and other investigating agencies concluded that Marco
54 Barrios duly observed the stop sign at the intersection of E
55 49th Street and E 9th Court and that Officer Somarriba's speed
56 was a contributing factor to the fatal crash, and

57 WHEREAS, a toxicology test conducted in the course of the
58 homicide investigation determined that Marco Barrios was not
59 impaired by alcohol or any other substance at the time of the
60 crash, and

61 WHEREAS, there was no toxicology report for Officer

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62 Somarriba, and

63 WHEREAS, Andrea Castillo was the only daughter of Susana
64 and Osvaldo Castillo and is survived by them, her younger
65 brother, Kevin Castillo, and her grandparents, all of whom were
66 emotionally dependent upon her and loved her dearly, and

67 WHEREAS, at the time of her death, Andrea Castillo was
68 enrolled in college to obtain her degree in education in order
69 to follow in the footsteps of her grandmother, May Garcia-
70 Clissent, who served as a teacher in Cuba and, for 35 years,
71 with the Miami-Dade County Public Schools, and her mother,
72 Susana Castillo, who serves on the Miami-Dade County School
73 Board, and

74 WHEREAS, the Andrea Castillo Foundation has been created in
75 Andrea's honor in order to raise funds for students who do not
76 have the financial means to pursue a degree in education, and

77 WHEREAS, in 2012, Susana Castillo, individually and as
78 personal representative of the Estate of Andrea Castillo, filed
79 a wrongful death lawsuit in the 11th Judicial Circuit Court in
80 and for Miami-Dade County, *Susana Vicaria Castillo, as personal*
81 *representative of the Estate of Andrea Nicole Castillo,*
82 *deceased, v. City of Hialeah, Florida, a municipality and*
83 *subdivision of the State of Florida, and Raul Somarriba,*
84 *individually, Case No. 13-16278 CA 10, and*

85 WHEREAS, in 2012, Marco Barrios filed a lawsuit in the 11th
86 Judicial Circuit Court in and for Miami-Dade County, *Marco*
87 *Barrios, individually, v. City of Hialeah, Florida, a Florida*
88 *municipal governmental entity, Case No. 13-15659 CA 10, and*

89 WHEREAS, following litigation and mediation of their
90 disputes, the parties to such actions on June 9, 2015, entered

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91 into a settlement agreement, which agreement was approved by the
92 Hialeah City Council, and

93 WHEREAS, the terms of the settlement agreement required the
94 claimants, Marco Barrios and the Estate of Andrea Castillo, to
95 dismiss their cases with prejudice and provide a full release of
96 liability to the City of Hialeah and its employees, which the
97 claimants have done, in exchange for payments by the City of
98 Hialeah totaling \$750,000, inclusive of all claimants, and

99 WHEREAS, pursuant to the settlement agreement, the City of
100 Hialeah has paid \$295,000 to the claimants, leaving an unpaid
101 balance of \$455,000, and

102 WHEREAS, as part of the terms of the settlement agreement
103 and general release, the City of Hialeah has agreed to support
104 the passage of a claim bill and to pay the remaining balance of
105 \$455,000 in installments, with the last payment to be made on
106 May 1, 2018, NOW, THEREFORE,

107

108

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

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

113 Section 2. The City of Hialeah is authorized and directed
114 to appropriate from funds of the city not otherwise appropriated
115 and to draw warrants totaling the amount of \$455,000, payable to
116 the law firm of Silva & Silva, P.A., Trust Account for the
117 benefit of Susana Castillo, as personal representative of the
118 Estate of Andrea Nicole Castillo, as compensation for injuries
119 and damages sustained as a result of the death of Andrea

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120 Castillo. The amount of \$150,000 shall be paid on May 1, 2016,
121 the amount of \$150,000 shall be paid on May 1, 2017, and the
122 final payment amount of \$155,000 shall be paid on May 1, 2018.

123 Section 3. The total amount paid for attorney fees,
124 lobbying fees, costs, and other similar expenses relating to the
125 claims may not exceed 25 percent of the total amount awarded
126 under this act.

127 Section 4. The amounts awarded pursuant to the waiver of
128 sovereign immunity under s. 768.28, Florida Statutes, and under
129 this act are intended to provide the sole compensation for all
130 present and future claims arising out of the factual situation
131 described in the preamble to this act which resulted in the
132 death of Andrea Castillo.

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