

By Senator Farmer

34-00587-17

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1                   A bill to be entitled  
2           An act for the relief of Jerry Cunningham by Broward  
3           County; providing for an appropriation to compensate  
4           him for injuries sustained as a result of the  
5           negligence of Broward County; providing that the  
6           appropriation settles all present and future claims  
7           related to the negligent act; providing a limitation  
8           on the payment of compensation, fees, and costs;  
9           providing an effective date.

10  
11           WHEREAS, on May 10, 2013, Jerry Cunningham and his mother  
12           walked from their home to a bus stop for Broward County Transit  
13           on Sample Road in Pompano Beach, where Jerry was to board the  
14           bus to take him to school, and

15           WHEREAS, Jerry Cunningham presented himself at the  
16           threshold of the bus and was attempting to board the bus with  
17           its door still open when the bus driver proceeded to close the  
18           door on Jerry's arm, and

19           WHEREAS, the bus driver began to leave the bus stop even  
20           though passengers allegedly alerted the driver to Jerry  
21           Cunningham's presence and even though two other passengers who  
22           had just boarded had not yet crossed the standee line to find a  
23           seat, which was in direct violation of state requirements and a  
24           policy issued in a Broward County Transit memorandum in March  
25           2013, and

26           WHEREAS, as the bus continued to pull away, Jerry  
27           Cunningham attempted to run alongside the bus with his arm  
28           caught in the doors until he eventually fell to the pavement,  
29           unable to keep up with the bus's speed, and was subsequently  
30           struck by the bus, and

31           WHEREAS, after the accident, Jerry Cunningham was  
32           immediately transported to Broward Health North and was

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33 subsequently airlifted to the pediatric intensive care unit at  
34 Broward Health Medical Center, and

35 WHEREAS, on June 13, 2013, Jerry Cunningham was transferred  
36 to Jackson Memorial Hospital's family-centered pediatric  
37 rehabilitation program in order to receive intensive  
38 occupational, physical, speech, and neuropsychological therapy,  
39 and

40 WHEREAS, as a result of the accident, Jerry Cunningham  
41 suffered traumatic brain injury, multiple skull fractures,  
42 multiple facial fractures, multiple rib fractures, a right  
43 clavicle fracture, a right scapular fracture, a right pulmonary  
44 contusion, and a left medial malleolus fracture and was placed  
45 in a medically induced coma for approximately 1 month, and

46 WHEREAS, Jerry Cunningham was unable to return to school  
47 for approximately 18 months and continues to be impacted by the  
48 accident through his diagnoses of neurocognitive disorder,  
49 adjustment disorder with depression, central auditory processing  
50 disorder, neuropsychological impairment in processing speed and  
51 memory, motor dexterity impairment, and various physical  
52 limitations, and

53 WHEREAS, the bus driver owed a duty of care to Jerry  
54 Cunningham, and Broward County is vicariously liable for the  
55 negligence of the bus driver, who was acting within the normal  
56 scope of his employment, and

57 WHEREAS, Jerry Cunningham and his parents, Lillian and  
58 Gerrard Cunningham, have agreed to a settlement with Broward  
59 County in the sum of \$850,000, and Broward County has agreed to  
60 pay \$300,000 of the settlement pursuant to the statutory limits  
61 of liability set forth in s. 768.28, Florida Statutes, leaving a

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62 remaining balance of \$550,000, NOW, THEREFORE,

63

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

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

68 Section 2. Broward County is authorized and directed to  
69 appropriate from funds not otherwise encumbered and to draw a  
70 warrant in the sum of \$550,000, plus interest accruing at the  
71 rate of 7 percent per annum until paid, payable to Jerry  
72 Cunningham as compensation for injuries and damages sustained.

73 Section 3. The amount paid by Broward County pursuant to s.  
74 768.28, Florida Statutes, and the amount awarded under this act  
75 are intended to provide the sole compensation for all present  
76 and future claims arising out of the factual situation described  
77 in this act which resulted in injuries and damages to Jerry  
78 Cunningham. The total amount paid for attorney fees, lobbying  
79 fees, costs, and similar expenses relating to this claim may not  
80 exceed 25 percent of the amount awarded under this act.

81 Section 4. This act shall take effect upon becoming a law.