

HB 6545

2017

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

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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
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

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

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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
67 are 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
74 s. 768.28, Florida Statutes, and the amount awarded under this
75 act are intended to provide the sole compensation for all

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76 present and future claims arising out of the factual situation
77 described in this act which resulted in injuries and damages to
78 Jerry Cunningham. The total amount paid for attorney fees,
79 lobbying fees, costs, and similar expenses relating to this
80 claim may not exceed 25 percent of the amount awarded under this
81 act.

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