

ENROLLED

CS/HB 6545

2017 Legislature

1
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

ENROLLED

CS/HB 6545

2017 Legislature

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

30 WHEREAS, after the accident, Jerry Cunningham was
31 immediately transported to Broward Health North and was
32 subsequently airlifted to the pediatric intensive care unit at
33 Broward Health Medical Center, and

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

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

45 WHEREAS, Jerry Cunningham continues to be impacted by the
46 accident through his diagnoses of neurocognitive disorder,
47 adjustment disorder with depression, central auditory processing
48 disorder, neuropsychological impairment in processing speed and
49 memory, motor dexterity impairment, and various physical
50 limitations, and

ENROLLED

CS/HB 6545

2017 Legislature

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

55 WHEREAS, Jerry Cunningham and his parents, Lilliam and
 56 Gerrard Cunningham, have agreed to a settlement with Broward
 57 County in the sum of \$850,000, and Broward County has agreed to
 58 pay \$300,000 of the settlement pursuant to the statutory limits
 59 of liability set forth in s. 768.28, Florida Statutes, leaving a
 60 remaining balance of \$550,000, NOW, THEREFORE,

61

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

63

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

66 Section 2. Broward County is authorized and directed to
 67 appropriate from funds not otherwise encumbered and to draw a
 68 warrant in the sum of \$550,000, to be placed in the special
 69 needs trust created for the exclusive use and benefit of Jerry
 70 Cunningham as compensation for injuries and damages sustained.

71 Section 3. The amount paid by Broward County pursuant to
 72 s. 768.28, Florida Statutes, and the amount awarded under this
 73 act are intended to provide the sole compensation for all
 74 present and future claims arising out of the factual situation
 75 described in this act which resulted in injuries and damages to

ENROLLED

CS/HB 6545

2017 Legislature

76 | Jerry Cunningham. Of the amount awarded under this act, the
77 | total amount paid for attorney fees may not exceed \$104,500, the
78 | total amount paid for lobbying fees may not exceed \$33,000, and
79 | no amount may be paid for costs and other similar expenses
80 | relating to this claim.

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