

**CS/SB 116** by **EE, Wise (CO-INTRODUCERS) Gaetz**; (Identical to CS/H 0075) Freeholder Voting

**SB 2** by **Haridopolos**; (Identical to H 0141) Relief of William Dillon by State of Florida

154026	T	S	RCS	RC, Thrasher	In title, delete L.19 -	11/16 02:13 PM
488322	A	S	FAV	RC, Thrasher	Delete L.78:	11/16 02:13 PM

**SB 4** by **Benacquisto**; (Similar to H 0445) Relief of Eric Brody by the Broward County Sheriff's Office

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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**RULES**  
**Senator Thrasher, Chair**  
**Senator Alexander, Vice Chair**

**MEETING DATE:** Wednesday, November 16, 2011  
**TIME:** 11:45 a.m.—1:15 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Thrasher, Chair; Senator Alexander, Vice Chair; Senators Bullard, Flores, Gaetz, Gardiner, Jones, Margolis, Negron, Richter, Siplin, Smith, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 116</b> Rules Subcommittee on Ethics and Elections / Wise (Compare H 75)	Freeholder Voting; Permitting the submission of a written declaration to establish that an elector is a freeholder and qualified to vote in an election or referendum limited to freeholders who are qualified to vote, etc.  EE 10/05/2011 Fav/CS RC 11/16/2011 Favorable BC	Favorable Yeas 11 Nays 0
2	<b>SB 2</b> Haridopolos (Identical H 141)	Relief of William Dillon by State of Florida; Providing for the relief of William Dillon, who was wrongfully incarcerated for 27 years and exonerated by a court after DNA testing; providing an appropriation to compensate Mr. Dillon for his wrongful incarceration; directing the Chief Financial Officer to draw a warrant for the purchase of an annuity; providing for a waiver of certain tuition and fees; providing conditions for payment; providing that the act does not waive certain defenses or increase the state's liability; providing a limitation on the payment of fees and costs; providing that certain benefits are void upon a finding that Mr. Dillon is not innocent of the alleged crime, etc.  SM 11/03/2011 Recommendation: Fav/1 Amendment RC 11/16/2011 Fav/CS	Fav/CS Yeas 11 Nays 0
3	<b>SB 4</b> Benacquisto (Similar H 445)	Relief of Eric Brody by the Broward County Sheriff's Office; Providing for the relief of Eric Brody by the Broward County Sheriff's Office; providing for an appropriation to compensate Eric Brody for injuries sustained as a result of the negligence of the Broward County Sheriff's Office; providing a limitation on the payment of fees and costs related to the claim against the Broward County Sheriff's Office; providing legislative intent regarding lien interests held by the state; requiring that the guardianship pay a portion of such liens before distributing funds to the claimant, etc.  SM 11/03/2011 Recommendation: Fav/1 Amendment RC 11/16/2011 Fav/CS	Fav/CS Yeas 9 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Rules

Wednesday, November 16, 2011, 11:45 a.m.—1:15 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Rules Committee

BILL: CS/SB 116

INTRODUCER: Ethics and Elections Subcommittee on Rules and Senator Wise

SUBJECT: Freeholder Voting

DATE: October 5, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	<b>Fav/CS</b>
2.	Carlton	Phelps	RC	<b>Favorable</b>
3.			BC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

Section 100.241(2), F.S., requires a voter participating in a freeholder election to submit a sworn affidavit to an election inspector affirming that he or she is a qualified elector and freeholder residing in the county, district, or municipality in which the election or referendum is to be held. CS/SB 116 removes the affidavit requirement in favor of a written declaration affirming his or her status as a freeholder qualified to vote in a freeholder election.

CS/SB 116 substantially amends s. 100.241, F.S.

**II. Present Situation:**

A freeholder election is an election in which only qualified electors who own land in the jurisdiction may vote. Typically, freeholder elections concern bond issuance, district creation, and officer selection in counties, municipalities, and special districts. Some examples of freeholder elections in Florida are:

- issuance of local bonds to finance or refinance capital projects;<sup>1</sup>
- freeholders who are qualified electors residing in a county must approve the issuance of bonds;<sup>2</sup>
- general obligations bonds;<sup>3</sup>
- bonds to build bridges over navigable streams;<sup>4</sup>
- creation of a water or sewer district in unincorporated areas;<sup>5</sup>
- issuance of bonds for water or sewer districts;<sup>6</sup> and,
- creation of special neighborhood improvement districts.<sup>7</sup>

By statute, “each registered elector who makes a sworn affidavit of ownership to the inspectors, giving either a legal description, address, or location of property in the elector’s name which is not wholly exempt from taxation shall be...considered a freeholder.”<sup>8</sup> Currently, each freeholder voting in a freeholder election must submit an affidavit made before an inspector affirming that he or she is a freeholder and qualified elector residing in the county, district, or municipality in which the election or referendum is to be held.<sup>9</sup> When a freeholder is voting by absentee ballot, he or she submits the same affidavit as those freeholders voting at the polls. However, the freeholder must go through the additional burden of finding a notary public to notarize his or her affidavit. If an election is limited to freeholders, a person who is not a freeholder commits a first degree misdemeanor if they vote in the freeholder election.<sup>10</sup>

Compliance with the affidavit requirement may be difficult, if not impossible, for an active duty military freeholder or other Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) freeholder. Efforts to obtain notarization can be logistically difficult, if not dangerous in some circumstances. Further, voter participation may be impacted by excessive fees charged by overseas notaries public.

### III. Effect of Proposed Changes:

CS/SB 116 removes the affidavit requirement in favor of requiring a freeholder to submit a written declaration as provided in s. 92.525, F.S., attesting that he or she is a freeholder, a qualified elector residing in the county, district, or municipality in which the election or referendum is to be held, and identifying his or her property. Section 92.525, F.S., authorizes verification of a document by oath or affirmation before an officer or by signing a written declaration.<sup>11</sup> The form of the written declaration is specified in s. 92.525(2), F.S., which provides:

<sup>1</sup> Section 12, Article VII, Florida Constitution.

<sup>2</sup> Section 130.03, F.S.

<sup>3</sup> Section 153.07, F.S.

<sup>4</sup> Section 130.18, F.S.

<sup>5</sup> Section 153.53, F.S.

<sup>6</sup> Section 153.56, F.S.

<sup>7</sup> Section 163.511, F.S.

<sup>8</sup> Section 100.241(3), F.S.

<sup>9</sup> Section 100.241(2), F.S.

<sup>10</sup> Section 100.241(5), F.S.

<sup>11</sup> Section 92.525(1), F.S.

A written declaration means the following statement: “Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true,” followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words “to the best of my knowledge and belief” may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

Pursuant to s. 92.525(3), F.S., a person who knowingly makes a false declaration commits perjury by false written declaration, a third degree felony.<sup>12</sup>

By requiring a written declaration instead of a sworn affidavit, CS/SB 116 alleviates the difficulty absentee and UOCAVA voters may have in obtaining notarization because s. 92.525, F.S., does not require that a written declaration be countersigned.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

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<sup>12</sup> Additionally, s. 104.011(1), F.S., provides that “any person who willfully swears or affirms falsely to any oath or affirmation...in connection with or arising out of voting or elections commits a felony of the third degree.”

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Rules Subcommittee on Ethics and Elections on October 5, 2011:**

The CS removes the affidavit requirement in favor of a written declaration to establish that a voter is a freeholder who is eligible to participate in a freeholder election. The CS also removes the crime of perjury by false written declaration from the bill because other applicable provisions make it a third degree felony to falsely execute a written declaration or oath.

**B. Amendments:**

None.

By the Committee on Rules Subcommittee on Ethics and Elections;  
and Senator Wise

582-00562-12

2012116c1

1 A bill to be entitled  
2 An act relating to freeholder voting; amending s.  
3 100.241, F.S.; permitting the submission of a written  
4 declaration to establish that an elector is a  
5 freeholder and qualified to vote in an election or  
6 referendum limited to freeholders who are qualified to  
7 vote; providing an effective date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. Section 100.241, Florida Statutes, is amended to  
12 read:

13 100.241 Freeholder voting; election; penalties for  
14 ineligible persons who vote as freeholders.-

15 (1) In any election or referendum in which only electors  
16 who are freeholders are qualified to vote, the regular  
17 registration books covering the precincts located within the  
18 geographical area in which the election or referendum is to be  
19 held shall be used.

20 (2) Qualification and registration of electors  
21 participating in a freeholder ~~such an~~ election or referendum  
22 subject to this section shall be the same as prescribed for  
23 voting in other elections under this code, and, in addition,  
24 each such elector shall submit a written declaration, verified  
25 pursuant to s. 92.525, affirming proof by affidavit made before  
26 ~~an inspector~~ that the elector is a freeholder who is a qualified  
27 elector residing in the county, district, or municipality in  
28 which the election or referendum is to be held.

29 (3) Each registered elector who submits the written

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

582-00562-12

2012116c1

30 ~~declaration~~ makes a sworn affidavit of ownership to the  
31 ~~inspectors,~~ giving either a legal description, address, or  
32 location of property in the elector's name which is not wholly  
33 exempt from taxation ~~is shall be~~ entitled to vote in the  
34 election or referendum and ~~is shall be~~ considered a freeholder.

35 (4) The actual costs of conducting a freeholder ~~such~~  
36 ~~freeholders'~~ election or referendum subject to this section  
37 shall be paid by the county, district, or municipality requiring  
38 the election or referendum ~~same to be held~~.

39 (5) A ~~It is unlawful for any person~~ may not ~~to~~ vote in any  
40 county, district, or other election or referendum which is  
41 limited to a vote of the electors who are freeholders, unless  
42 the ~~such~~ person is a freeholder and a qualified elector. A ~~Any~~  
43 person who violates ~~the provisions of~~ this subsection commits ~~is~~  
44 guilty of a misdemeanor of the first degree, punishable as  
45 provided in s. 775.082 or s. 775.083.

46 Section 2. This act shall take effect July 1, 2012.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/11  
Meeting Date

Topic Freeholder Voting Bill Number S116  
Name Chris Chambless Amendment Barcode \_\_\_\_\_  
Job Title Supervisor of Elections, @1A4 (if applicable)  
Address \_\_\_\_\_ Phone \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
402 Senate Office Building

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5237

DATE	COMM	ACTION
11/1/11	SM	<b>Fav/1 amendment</b>
11/16/11	RC	<b>Fav/CS</b>

November 1, 2011

The Honorable Mike Haridopolos  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **CS/SB 2 (2012)** – Rules Committee and Senator Mike Haridopolos  
Relief of William Dillon

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN EQUITABLE CLAIM FOR \$810,000 FROM GENERAL REVENUE, PLUS TUITION WAIVERS, TO COMPENSATE WILLIAM DILLON FOR HIS 27-YEAR WRONGFUL INCARCERATION FOR MURDER.

#### FINDINGS OF FACT:

On August 17, 1981, the body of 40-year-old James Dvorak was found in a wooded area frequented by gay men at Canova Beach. Canova Beach is between Melbourne Beach and Satellite Beach in Brevard County, opposite the Eau Gallie Causeway. There were multiple fractures of Dvorak's skull. The medical examiner determined that Dvorak was beaten to death with fists and possibly with a blunt instrument. No murder weapon was ever found. It was estimated that the beating occurred between 1:30 and 3:30 a.m. on August 17 and that Dvorak died soon afterward.

John Parker drove to Canova Beach on August 17, around 1:30 a.m. or a little later. He observed a man walk up from the beach. The man appeared unsteady and upset. He wore shorts and no shirt, but had a shirt in his hand. Parker pulled his truck over to the man and asked what was wrong. The man told Parker that he could not find his car and asked Parker for a ride to the A-Frame Tavern, which was not far away. Parker later described the man as 21 to 27 years old,

about 6 feet tall, and having a mustache. The man said his name was Jim. He was sweaty and had blood smears on his leg and pants. When Parker asked about the blood, the man said he had been in a bar fight. Parker drove the man to the A-Frame Tavern.

The next morning, Parker found a T-shirt in his truck. The shirt was yellow and had "SURF IT" printed on the front and back. When Parker later heard about the murder at Canova Beach, he contacted the police and told them about the hitchhiker at Canova Beach and the T-shirt that was left in his truck. The Brevard County Sheriff's Office ("BCSO") obtained the T-shirt and prepared a sketch of the hitchhiker from Parker's description. Blood on the T-shirt was matched to the murder victim, Dvorak.

At the time of the murder, William Dillon was 22 years old, unemployed, broke, locked out of his apartment for not paying the rent, and was spending his days and nights hanging out with acquaintances or strangers, and "bumming" cigarettes, drinks, meals, and rides. Dillon was often at the Pelican Bar, which is across A-1-A from Canova Beach. A couple of weeks before the murder, he met Donna Parrish at the Pelican Bar and they were spending a lot of time together.

Unlike the hitchhiker, Dillon did not have a mustache, but someone told the BCSO that Dillon had tried to grow a mustache and had recently shaved it off. Parker described the hitchhiker as being about 6 feet tall. Dillon is 6 feet, 3 inches tall. Nevertheless, interviews conducted by homicide investigators in the Canova Beach area after the murder caused Dillon to become a suspect. Some people thought the sketch of the hitchhiker looked like Dillon. Parrish reported to police that the sketch looked like Dillon and he would rob gay men for money. Other people said they heard Dillon bragging about beating up gay men.

When Dillon was contacted by the BCSO and interviewed, he gave inconsistent accounts of his whereabouts on the night of August 16 and the early morning hours of August 17. Dillon said he was at home of an acquaintance, Matt Bocci, the evening of August 16 and never went out. He later told investigators that he had lied; he had left the Bocci residence the evening of August 16, but he did not go to Canova

Beach. The interviewer, Agent Thom Fair, said that Dillon had recently-healed scratches on his hands.

Dillon agreed to two polygraph tests. After the first test, the examiner concluded that Dillon showed deception when he was asked whether he was at Canova Beach at the time of the murder and whether he hit Dvorak. After the second test, the examiner concluded that Dillon showed deception when he was asked whether he had taken money from Dvorak.

No fingerprints, blood samples, or hair samples taken from the crime scene were ever linked to Dillon. When John Parker was first asked whether he could identify Dillon as the hitchhiker, Parker was unable to make a positive identification, but he later picked Dillon out from a group of photos.

During one of Dillon's interviews, the deputies got Dillon to handle a piece of paper that was later given to John Preston, the handler of a tracking dog. According to Preston, his dog connected Dillon's scent on the piece of paper to the bloody T-shirt left in Parker's truck, indicating that Dillon's scent was also on the T-shirt. Three or four people said they had seen Dillon wearing a yellow "SURF IT" T-shirt like the one left in Parker's truck by the hitchhiker.

Donna Parrish also gave inconsistent accounts of where she and Dillon had been the evening of August 16 and the early morning hours of August 17. She said she called for Dillon at the Pelican Bar and talked to him at 2:00 a.m. on August 17; he got a ride to her home and arrived about 3:00 a.m.; Dillon was scared and depressed when he arrived and told her the "police would be after him." She said Dillon's hands were cut and he had dried blood on his hands. A week after Dillon's arrest, Parrish changed her story again. She said that she and Dillon were together at the Pelican Bar on the night of August 16; she left by herself at 1:00 a.m. on August 17 and Dillon left shortly afterward. They talked for a short while outside the bar and then Parrish hitchhiked home. She says she returned to the bar and Dillon was not there, but then showed up again and he had money to buy drinks for himself, Parrish, and some other people. A waitress at the bar also stated that Dillon had money that night, something she had never seen before. Parrish said she left Dillon and

hitchhiked home. She said Dillon got a ride to her house and told her that he had gotten into a fight and hurt someone. She said he later told her he had beaten someone “so bad he died.”

A month later, Parrish changed her story again to say that she saw Dillon in the parking area next to Canova Beach just after midnight, talking with someone at a parked car. She later went looking for Dillon, taking the path to the beach, and came upon Dillon standing next to the naked and bloody body of a man. Parrish changed her account of events so many times that all of her statements, whether they helped or hurt Dillon, are subject to doubt unless they are corroborated by others.

It was later disclosed that, following an interview of Parrish by Chief Homicide Investigator Charles Slaughter, he drove her to his residence and had sexual intercourse with her. The sexual encounter was reported by Parrish, who filed a complaint with the Sheriff's Office. Slaughter admitted the sexual contact and he was immediately suspended, demoted, and transferred out of the homicide unit.

After Dillon's arrest, he was placed in a jail cell with Roger Chapman. Chapman asked to speak with deputies. Agent Thom Fair met with Chapman at the jail. Chapman told Agent Fair that Dillon said he had “sucker punched” a man at the beach and then beat him with his fists. At the claim bill hearing held on November 2, 2009, Chapman testified that he had been coerced by Agent Fair to make up lies about Dillon or face harsh prosecution on his own charge of sexual battery. Chapman's charges were later dropped for lack of evidence. Agent Fair submitted an affidavit in which he asserts that Chapman's statement was not coerced. The testimony of Chapman and Agent Fair on this point was not subject to cross-examination and is otherwise insufficient to resolve the claim about coercion.

Sometime after Dillon's arrest on August 26, 1981, Charles and Rosanne Rogers told deputies that Dillon and Parrish had spent the night of August 16 with them in Cocoa Beach. Dillon did not say that he had stayed with the Rogers until the Rogers came forward with that account. When Dillon was asked at his trial why he had not said earlier that he stayed with the Rogers on August 16, he said he had

forgotten their names. Several people said they saw Dillon at the Bocci residence on August 16 and several people said they saw Dillon at the Pelican Bar the night of August 16 and in the early morning hours of August 17. I cannot believe that all of these people were lying or mistaken. In addition, both Dillon and Parrish had given sworn statements that they were at the Bocci residence on August 16. The Rogers' account was not considered credible in 1981 and it is still not credible.

At Dillon's trial, Parker identified Dillon as the hitchhiker who left the yellow T-shirt in his truck; Preston testified that his dog matched Dillon to the bloody T-shirt; and Chapman testified about Dillon's "confession" to him when they were sharing a jail cell. There was testimony that Dillon often wore the same kind of yellow T-shirt. Parrish testified that she saw Dillon at Dvorak's body. It is not surprising, therefore, that the jury found Dillon guilty of murder beyond a reasonable doubt.

#### LITIGATION HISTORY:

Dillon was tried in the circuit court for Brevard County. On December 4, 1981, he was found guilty of first degree murder. He was sentenced to life in prison.

A week after the trial, Dillon's attorney moved for a mistrial because Parrish wanted to recant her trial testimony. A hearing was held before the trial judge to consider the motion. Parrish said that she had lied about seeing Dillon at the body of the murder victim. She said she lied because Sheriff's deputies told her that if she did not lie for them, she would "rot in jail for 25 years." Parrish did not explain what crime she could have been prosecuted for that could cause her to be sentenced to 25 years in prison. Following the hearing, the trial court denied the motion for mistrial, and Dillon was sent to prison.

In addition to Dillon's loss of freedom and the many other deprivations caused by his incarceration, he claims to have been raped while in prison. He also says he has dental problems due to the poor dental care he received in prison.

Dillon's attorneys have claimed that his conviction was the result of prosecutorial misconduct, but the evidence for that claim is weak. The dog handler, John Preston, was discredited and shown to be falsely claiming that his dogs

were matching crime scene evidence to suspects when there was no match. However, he was discredited long after Dillon's trial. There is no evidence to show the BCSO knew that Preston was a fraud. The jailhouse snitch, Chapman, was not credible and he has recently recanted his recantation at the claim bill hearing. Chapman claims that the Innocence Project told him what to say at the hearing and he adheres again to his 1981 assertion that Dillon told him that he had beaten a man. Parrish also recanted her recantation of her testimony against Dillon. Parrish now says that she recanted her trial testimony due to being manipulated by Dillon's attorney. It is undisputed that a BCSO investigator had sex with Parrish during the Dvorak murder investigation, but swift disciplinary action was taken to demote and transfer the investigator and it was not shown to have affected the prosecution of Dillon.

Dillon had a good record in prison with respect to work assignments and general behavior. In 2005, Dillon learned about the Wilton Dedge case and Dedge's exoneration for a rape conviction based on DNA testing. Dillon filed a motion for DNA testing. In 2007, an interview of Dillon was seen by staff at the Innocence Project of Florida. The Innocence Project got involved to assist Dillon and paid for DNA testing of the bloody T-shirt by a private laboratory which used testing methods not available at the state laboratory. The DNA testing showed that the sweat and skin cells on the T-shirt did not come from Dillon. A motion for a new trial was granted and Dillon was released from prison on November 18, 2008. In December 2008, the State Attorney for the Eighteenth Judicial Circuit, Norman Wolfinger, decided not to pursue a new trial. In a letter sent to the Special Master, Wolfinger explained that "meeting the State's burden of proof was going to be unrealistic in light of the nine witnesses who are now deceased and another key witness who has substantial medical issues."

#### The New Investigation

Following Dillon's release from prison, Sheriff Jack Parker ordered a new investigation of the murder of James Dvorak. On June 9, 2011, the BCSO announced its conclusion that Dillon had not murdered Dvorak; that the murder was committed by four men who had not previously been suspects--James Johnstone, Phillip Huff, Daryl Novak, and

Eric Novak. These four men have not been arrested and charged with the murder, but the State Attorney for the Seventh Judicial District (the case was specially assigned out of Brevard County to avoid any charge of partiality) is preparing the prosecution. The four men are innocent until proven guilty in a court of law.

The investigators found a telephone memo for a call that had been received by the BCSO in 1981 from someone who had overheard Johnstone and Huff talking about having beaten a homosexual man at the beach. The Brevard County Public Defender's Office received a tip in 2010 from someone who had read about Dillon's release from prison, reporting to have heard the two Novak brothers in 1981 talking about beating up and possibly killing a gay man at the beach. In 1981, all four men lived in Satellite Beach, near the scene of the murder.

All four suspects originally denied involvement when questioned. However, in February 2011, Huff confessed that he was involved in the murder of Dvorak. Huff, who was only 17 at the time, stated that he, Johnstone and the Novak brothers were smoking marijuana at Canova Beach when they were joined by Dvorak, who was a stranger to them. At some point, Johnstone and Dvorak walked off into a wooded area. Huff and the Novak brothers later went looking for Johnstone and Dvorak and found them on the ground having sex. Upon being discovered, the two got up, and Johnstone began punching Dvorak. Then the Novak brothers chased and beat Dvorak as he pleaded for his life. Huff had no explanation for why the Novak brothers "went into a rage." Huff said Dvorak was hit in the head with a tree limb. The BCSO investigators found Huff's story to be credible because the details matched the crime scene investigation.

Johnstone, Huff, and Eric Novak volunteered DNA samples and a DNA sample was obtained from Daryl Novak without his knowledge. Johnstone's DNA matched sweat found on the yellow T-shirt that had been used to convict Dillon. At the time of the murder, Johnstone was 20 years old, 5 feet, eleven inches tall, of slender build, with brown hair and a mustache. Those features match John Parker's description of the hitchhiker with the yellow T-shirt that Parker picked up the night of the murder. Parker said the hitchhiker told him his name was Jim, which is James Johnstone's nickname.

The hitchhiker told Parker he was looking for his blue Dodge Dart. Johnstone owned a blue Dodge Dart. Therefore, the evidence implicating Johnstone is very strong. The hitchhiker told Parker that he had left some people who were still on the beach, which provides a link to the involvement of the other men.

The new investigation disclosed some earlier criminal activity by Dillon:

Aug. 1978	Possession of stolen property
Nov. 1978	Possession of stolen property
Oct. 1979	DUI
May 1981	Furnishing alcohol to a minor

Dillon was prematurely discharged from the U.S. Army in 1979 after two years of a four-year enlistment. Dillon ended his military service by being "committed to the Commissioner of Health and Social Services to serve 90 days with 65 days of the sentence suspended" as a result of his possession of stolen property. He received a discharge "under honorable conditions," which is a lesser discharge status that is used when a person is found unsuitable for military service (which can be for petty offenses).

The 244-page report of the new investigation into the Dvorak murder ends with a conclusion that Dillon was not involved in the murder of James Dvorak. The conclusion also states: "Unfortunately, there are still lingering questions concerning the behavior of William Dillon on and about August 17, 1981. Based on witness statements, witness testimony, his previous pattern of conduct, and his inconsistent and untruthful statements, concerns and important unanswered questions remain relating to Mr. Dillon's activities."

CONCLUSIONS OF LAW:

The standard of proof to establish liability for a claim bill is preponderance of the evidence. However, when the Legislature created chapter 961, F.S., in 2008, to establish a statutory proceeding to compensate victims of wrongful incarceration, it included a requirement that the claimant demonstrate "actual innocence" by clear and convincing evidence. In addition, a person seeking the compensation provided by chapter 961 must have no felony conviction other than the conviction for which he or she was wrongfully incarcerated. The relief provided under chapter 961 is

\$50,000 for each year of wrongful incarceration; a tuition waiver for up to 120 hours at a career center, community college, or university in Florida; and reimbursement of court costs, attorney's fees, and expenses incurred in the criminal proceedings.

If a wrongfully incarcerated person could get the same compensation through a claim bill as he or she can obtain in a proceeding under chapter 961, but without having to demonstrate innocence by clear and convincing evidence and despite having other felony convictions, there would be no incentive for a claimant to ever use chapter 961. To preserve the intent of chapter 961, it would be logical and reasonable for the Senate to provide less compensation in a claim bill for wrongful incarceration, unless the claimant can meet the same conditions as are contained in chapter 961.

The evidence is now clear and convincing that Dillon is innocent of the murder of James Dvorak. However, Dillon has a felony conviction for possession of a controlled substance -- a Quaalude (and, apparently, a DUI conviction related to the same traffic stop). That makes Dillon ineligible for compensation under chapter 961. In a claim bill proceeding, it is a routine practice to consider all matters related to the character of the claimant, not just felony convictions.

There is no precedent to turn to in considering this issue of an appropriate award because this is the first claim bill for wrongful incarceration since the enactment of chapter 961. I believe the award proposed in SB 2 (2012) of \$810,000 (\$30,000 for each year of incarceration), plus tuition waivers, is reasonable under the totality of the circumstances.

ATTORNEYS FEES:

Dillon's attorneys are representing him *pro bono*. There is no lobbyist's fee.

OTHER ISSUES:

I recommend the deletion of the "whereas" clauses of the bill that allege prosecutorial misconduct by the BCSO. These assertions amount to legislative findings that crimes were committed by members of the BCSO, but there have been no charges filed, no determinations by a court, and there was insufficient evidence presented to the Special Master to support these allegations.

RECOMMENDATION:

For the reasons set forth above, I recommend that Senate Bill 2 (2012) be reported FAVORABLY, as amended.

Respectfully submitted,

Bram D. E. Canter  
Senate Special Master

cc: Senator Mike Haridopolos  
Debbie Brown, Secretary of the Senate  
Counsel of Record

**CS by Rules on November 16, 2011:**

Increases the amount of compensation to \$1,350,000.



154026

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/16/2011	.	
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	.	
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The Committee on Rules (Thrasher) recommended the following:

**Senate Amendment**

In title, delete lines 19 - 31.

1  
2  
3



488322

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
11/16/2011	.	
	.	
	.	
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The Committee on Rules (Thrasher) recommended the following:

**Senate Amendment**

Delete line 78

and insert:

Section 2. The sum of \$1,350,000 is appropriated from the

By Senator Haridopolos

26-00004-12

20122\_\_

1 A bill to be entitled  
 2 An act for the relief of William Dillon, who was  
 3 wrongfully incarcerated for 27 years and exonerated by  
 4 a court after DNA testing; providing an appropriation  
 5 to compensate Mr. Dillon for his wrongful  
 6 incarceration; directing the Chief Financial Officer  
 7 to draw a warrant for the purchase of an annuity;  
 8 providing for a waiver of certain tuition and fees;  
 9 providing conditions for payment; providing that the  
 10 act does not waive certain defenses or increase the  
 11 state's liability; providing a limitation on the  
 12 payment of fees and costs; providing that certain  
 13 benefits are void upon a finding that Mr. Dillon is  
 14 not innocent of the alleged crime; providing an  
 15 effective date.

16

17 WHEREAS, William Dillon was wrongfully convicted of first-  
 18 degree murder and imprisoned for 27 years, and

19 WHEREAS, even though the current State Attorney, an  
 20 assistant public defender at the time of Mr. Dillon's  
 21 conviction, publicly stated that dog scent evidence should be  
 22 banned because it had not "reached the level of reasonable  
 23 scientific credibility," the State of Florida allowed a  
 24 discredited dog handler to provide false and implausible  
 25 testimony improperly connecting William Dillon to the murder,  
 26 and

27 WHEREAS, the same dog handler provided false testimony  
 28 against Juan Ramos and Wilton Dedge, and

29 WHEREAS, the prosecutors presented witness testimony

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26-00004-12

20122\_\_

30 against William Dillon which the prosecutors knew or should have  
 31 known was unreliable, and

32 WHEREAS, the Circuit Court in the Eighteenth Judicial  
 33 Circuit granted the state's motion to discharge William Dillon  
 34 from custody based on DNA evidence that excluded William Dillon  
 35 as the perpetrator of the crime, and

36 WHEREAS, William Dillon was released on November 18, 2008,  
 37 and

38 WHEREAS, the Legislature acknowledges that the state's  
 39 system of justice yielded an imperfect result that had tragic  
 40 consequences in this case, and

41 WHEREAS, William Dillon was subjected to severe physical  
 42 and sexual abuse during his wrongful incarceration, and

43 WHEREAS, William Dillon incurred severe and permanent  
 44 dental damage as a result of a lack of dental care while  
 45 incarcerated, and

46 WHEREAS, the Legislature acknowledges that, as a result of  
 47 his conviction and physical confinement, William Dillon suffered  
 48 significant damages that are unique to William Dillon and all of  
 49 those damages are due to the fact that he was physically  
 50 restrained and prevented from exercising the freedom to which  
 51 all innocent citizens are entitled, and

52 WHEREAS, William Dillon, before his wrongful conviction for  
 53 the above-mentioned crime, pled guilty to a nonviolent felony  
 54 when he was 19 years old, and

55 WHEREAS, because of his prior felony conviction, William  
 56 Dillon is ineligible for compensation for each year of wrongful  
 57 incarceration under chapter 961, Florida Statutes, and

58 WHEREAS, the Legislature is providing compensation to

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26-00004-12 20122\_\_

59 William Dillon to acknowledge the fact that he suffered  
60 significant damages that are unique to William Dillon and are  
61 the result of his physical restraint and deprivation of freedom,  
62 and

63 WHEREAS, the Legislature is providing compensation to  
64 William Dillon based on a moral desire to acknowledge his  
65 undisputed and actual innocence, not in recognition of a  
66 constitutional right or violation, and

67 WHEREAS, the compensation provided by this act is the sole  
68 compensation from the state for any and all present and future  
69 claims arising out of the factual situation in connection with  
70 William Dillon's wrongful conviction and incarceration, and

71 WHEREAS, the Legislature apologizes to William Dillon on  
72 behalf of the state, NOW, THEREFORE,

73  
74 Be It Enacted by the Legislature of the State of Florida:

75  
76 Section 1. The facts stated in the preamble to this act are  
77 found and declared to be true.

78 Section 2. The sum of \$810,000 is appropriated from the  
79 General Revenue Fund to the Department of Financial Services  
80 under the conditions provided in this act.

81 Section 3. The Chief Financial Officer is directed to draw  
82 a warrant in the total sum specified in section 2 for the  
83 purposes provided in this act.

84 Section 4. The Department of Financial Services shall pay  
85 the funds appropriated under this act to an insurance company or  
86 other financial institution admitted and authorized to issue  
87 annuity contracts in this state and selected by William Dillon

26-00004-12 20122\_\_

88 to purchase an annuity. The Department of Financial Services  
89 shall execute all necessary agreements to implement this act.

90 Section 5. Tuition and fees for William Dillon shall be  
91 waived for up to a total of 120 hours of instruction at any  
92 career center established pursuant to s. 1001.44, Florida  
93 Statutes, community college established under part III of  
94 chapter 1004, Florida Statutes, or state university. For any  
95 educational benefit made, William Dillon must meet and maintain  
96 the regular admission requirements of, and be registered at,  
97 such career center, community college, or state university and  
98 make satisfactory academic progress as defined by the  
99 educational institution in which he is enrolled.

100 Section 6. The Chief Financial Officer shall purchase the  
101 annuity required by this act upon delivery by William Dillon to  
102 the Chief Financial Officer, the Department of Financial  
103 Services, the President of the Senate, and the Speaker of the  
104 House of Representatives of an executed release and waiver on  
105 behalf of William Dillon and his heirs, successors, and assigns  
106 forever releasing the State of Florida and any agency,  
107 instrumentality, officer, employee, or political subdivision  
108 thereof or any other entity subject to the provisions of s.  
109 768.28, Florida Statutes, from any and all present or future  
110 claims or declaratory relief that the claimant or any of his  
111 heirs, successors, or assigns may have against such enumerated  
112 entities and arising out of the factual situation in connection  
113 with the conviction for which compensation is awarded. However,  
114 this act does not prohibit declaratory action to obtain judicial  
115 expungement of William Dillon's records within a judicial or  
116 executive branch agency as otherwise provided by law.

26-00004-12

20122\_\_

117 Section 7. The Legislature by this act does not waive any  
118 defense of sovereign immunity or increase the limits of  
119 liability on behalf of the state or any person or entity that is  
120 subject to s. 768.28, Florida Statutes, or any other law.

121 Section 8. This award is intended to provide the sole  
122 compensation for any and all present and future claims arising  
123 out of the factual situation in connection with William Dillon's  
124 conviction and imprisonment. A further award for attorney's  
125 fees, lobbying fees, costs, or other similar expenses may not be  
126 made by the state.

127 Section 9. If a court of law finds that William Dillon, by  
128 DNA evidence or otherwise, is not innocent of the crime he is  
129 alleged to have committed, the unused benefits to which he is  
130 entitled under this act are void.

131 Section 10. This act shall take effect upon becoming a law.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/11  
Meeting Date

Topic \_\_\_\_\_

Bill Number 2  
*(if applicable)*

Name BRAM CANTER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title SPECIAL MASTER

Address \_\_\_\_\_  
*Street*

Phone \_\_\_\_\_

*City*

*State*

*Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

*If there are questions.*

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**COMMITTEE APPEARANCE RECORD**

(Submit to Committee Chair or Administrative Assistant)

11-16/2011

Date

2

Bill Number

Barcode

Name BRIAN Pitts

Phone 727/897-9291

Address 1119 Newton Ave S

E-mail \_\_\_\_\_

Street

St Petersburg

FL

33705

Job Title Trustee

City

State

Zip

Speaking:  For  Against  Information

Appearing at request of Chair

Subject Will Dillion

Representing Justice-2-Jesus

Lobbyist registered with Legislature:  Yes  No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from \_\_\_\_\_ .m. to \_\_\_\_\_ .m.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

16 Nov. 2011

Meeting Date

Topic Dillon Claims Bill

Bill Number SB 2  
*(if applicable)*

Name T. D'Alemberte

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Lawyer

Address 1117 Myers Park Blvd  
Street

Phone 325-6292

Tallahassee FL 32301  
City State Zip

E-mail dalemberte@dalemberteand  
palmer.com

Speaking:  For  Against  Information

Representing Bill Dillon

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/2011  
Meeting Date

Topic CLAIMS BILL

Bill Number SB-2  
*(if applicable)*

Name William Dillon

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title CLAIMANT

Address 388 WILSON AVE  
*Street*

Phone \_\_\_\_\_

SATellite Bch FL 32937  
*City State Zip*

E-mail CUDWID27@AOL.COM

Speaking:  For  Against  Information

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
402 Senate Office Building

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5237

DATE	COMM	ACTION
11/1/11	SM	<b>Fav/1 amendment</b>
11/16/11	RC	<b>Fav/CS</b>

November 1, 2011

The Honorable Mike Haridopolos  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **CS/SB 4 (2012)** – Rules Committee and Senator Lizbeth Benacquisto  
Relief of Eric Brody

### SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED EXCESS JUDGMENT CLAIM FOR \$15,575,021.30 OF LOCAL MONEY BASED ON A JURY AWARD AGAINST THE BROWARD COUNTY SHERIFF'S OFFICE TO COMPENSATE CLAIMANT ERIC BRODY FOR THE PERMANENT INJURIES HE SUFFERED IN A COLLISION WITH A DEPUTY SHERIFF'S CRUISER.

#### FINDINGS OF FACT:

On the evening of March 3, 1998, in Sunrise, Florida, 18-year-old Eric Brody was on his way home from his part-time job. He was making a left turn from Oakland Park Boulevard into his neighborhood when his AMC Concord was struck near the passenger door by a Sheriff's Office cruiser driven by Deputy Sheriff Christopher Thieman.

Deputy Thieman was on his way to a mandatory roll call at the Sheriff's district station in Weston. One estimate of his speed was 70 MPH. Even the lowest credible estimate of his speed was in excess of the 45 MPH speed limit. It is estimated that the cruiser, after braking, struck Eric's vehicle at about 53 MPH. The impact caused Eric to be violently thrown toward the passenger door, where he struck his head. He suffered broken ribs and a skull fracture. Eric was airlifted to Broward General Hospital where he underwent an

emergency craniotomy to reduce brain swelling. However, he suffered a severe brain injury that left him with permanent disabilities.

Eric was in the hospital intensive care unit for four weeks and then was transferred to a rehabilitation center. He was later transferred to a nursing home. He remained in an induced coma for about six months. After the coma, Eric had to learn to walk and talk again. Eric is now 32 years old and lives with his parents. He has difficulty walking and usually uses a wheelchair or a walker. His balance is diminished and he will often fall. Eric has some paralysis on the left side of his body and has no control of his left hand. He must be helped to do some simple personal tasks. He tires easily. The extent of his cognitive disabilities is not clear. His processing speed and short-term memory are impaired. Eric's mother believes his judgment has also been affected.

At the time of the collision, Eric had been accepted at two universities and was interested in pursuing a career in radio broadcasting. However, his speech was substantially affected by his injuries and it is now difficult for anyone other than his mother to understand him.

One of the main issues in the trial was whether Eric was comparatively negligent. The Broward County Sheriff's Office (BCSO) contends that Eric was not wearing his seatbelt and that, if he had been wearing his seatbelt, his injuries would have been substantially reduced. Eric has no memory of the accident because of his head injury, but testified at trial that he always wore his seatbelt. The paramedics who arrived at the scene of the crash testified that Eric's seatbelt was not fastened. However, the seatbelt was spooled out and there was evidence presented that the seatbelt could have become disconnected in the crash.

The jury saw a crash re-enactment that was conducted with similar vehicles, using a belted test dummy. The results of the reenactment supported the proposition that the collision would have caused a belted driver to strike his or her head on the passenger door. The seatbelt shoulder harness has little or no effect in stopping the movement of the upper body in a side impact like the one involved in this case. The head injury that Eric sustained is consistent with injuries sustained

by belted drivers in side impact collisions. Therefore, Eric's injury is consistent with the claim that he was wearing his seatbelt at the time of the collision. I conclude from the evidence presented that Eric was more likely than not wearing his seat belt.

Deputy Thieman's account of the incident was conspicuously lacking in detail. Deputy Thieman did not recall how fast he was going before the collision. He could not recall how close he was to Eric's vehicle when he first saw it. He could not recall whether Eric's turn signal was on.

A curious aspect of the incident was that Deputy Thieman had been traveling in the left lane of Oakland Park Boulevard, which has three westbound lanes, but collided with Eric's vehicle in the far right lane. If Deputy Thieman had stayed in the left lane, the collision would not have occurred. At trial, Deputy Thieman testified that he did not turn to the left because that was in the direction of oncoming traffic. However, there was no oncoming traffic at the time and, in any event, Thieman could have avoided the collision by continuing straight ahead. The manner in which Deputy Thieman maneuvered his vehicle was unreasonable under the circumstances and that it was a contributing cause of the collision.

Deputy Thieman was fired by the Broward County Sheriff's Office in 2006 for misconduct not related to the collision with Eric Brody.

Eric received \$10,000 from Personal Injury Protection coverage on his automobile insurance. He receives Social Security disabilities payments of approximately \$560 each month. He also received some vocational rehabilitation assistance which paid for a wheelchair ramp and some other modifications at his home.

Eric has a normal life expectancy. One life care plan developed for Eric estimated the cost of his care will be \$10,151,619. There was other evidence that his future care would cost \$5 to \$7 million.

LITIGATION HISTORY:

In 2002, a negligence lawsuit was filed in the circuit court for Broward County by Charles and Sharon Brody, as Eric's parents and guardians, against the BCSO. In December

2005, after a lengthy trial, the jury found that Deputy Thieman was negligent and that his negligence was the sole cause of Eric's damages. The jury awarded damages of \$30,609,298. The court entered a cost judgment of \$270,372.30. The sum of these two figures is \$30,879,670.30. Post-trial motions for new trial and remittitur were denied. The verdict was upheld on appeal.

The BCSO paid the \$200,000 sovereign immunity limit under s. 768.28, Florida Statutes. The payment was placed in a trust account and none of it has been disbursed. Attorney's fees and costs have not been deducted. Eric Brody has received nothing to date.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding to determine, based on the evidence presented to the Special Master, whether the BCSO is liable in negligence for the damages suffered by Eric Brody and, if so, whether the amount of the claim is reasonable.

Deputy Thieman had a duty to operate his vehicle in conformance with the posted speed limit and with reasonable care for the safety of other drivers. His speeding and failure to operate his vehicle with reasonable care caused the collision and the injuries that Eric Brody sustained. The BCSO is liable as Deputy Thieman's employer.

Although Eric Brody was required to yield before turning left, the evidence does not show that a failure to yield was a contributing cause of the collision. Eric reasonably judged that he could safely make the left turn. He was well past the lane in which Deputy Thieman was traveling. The collision appears to have been caused solely by Deputy Thieman's unreasonable actions in speeding and swerving to the right. I believe the jury acted reasonably in assigning no fault to Eric.

At the claim bill hearing, Claimant's counsel urged the Special Master to determine that the liability insurer for the BCSO, Ranger Insurance Company acted in bad faith by failing to timely tender its \$3 million coverage in this matter and, therefore, the insurer is liable for the entire judgment against the BCSO. However, because the insurer was not a party to the Senate claim bill proceeding, and because the

bad faith claim is not a proper subject for determination in a claim bill hearing under the rules of the Senate, I did not take evidence nor make a determination regarding the bad faith claim.

#### Modification of the Claim

SB 42 (2011), which passed the Senate, but not the House of Representatives, required the BCSO to pay the \$31 million claim, but stated that, in lieu of payment, the BCSO could assign its bad faith claim against its insurer to the Brodys and, if it assigned its claim, the BCSO was not required to pay the \$31 million. The BCSO and the Brodys entered into an agreement in which the BCSO agreed to assign its bad faith claim against its insurer to Brody in exchange for the Brodys' release of liability against the BCSO, but the Brodys have not yet executed the release of liability.

This year, SB 4 reduces the claim amount to about \$15.6 million. The bill makes no mention of an option for the BCSO to avoid payment of the \$15.6 million by assigning its bad faith claim to the Brodys, but that option appears to be presumed.

Ranger Insurance Company objects to SB 4, claiming that it is "an unconstitutional bad faith litigation authorization bill" masquerading as a claim bill. I do not agree that SB 4 authorizes the bad faith litigation. The authority for the bad faith claim and for the assignment of the claim exists independent of Senate action. There is no legal precedent which assists in analyzing this issue. However, I do not see a constitutional bar to the Senate's passage of a claim bill that orders a respondent to pay a claim that might be (or is even expected to be) resolved by a release of the respondent's liability by the claimant for valuable consideration. If Ranger Insurance Company is right, that the BCSO cannot avoid paying the claim via its agreement with the Brodys, then Eric Brody will be paid by the BCSO as provided by SB 4.

#### ATTORNEYS FEES:

In compliance with s. 768.28(8), Florida Statutes, the Claimant's attorneys will limit their fees to 25 percent of any amount awarded by the Legislature.

SPECIAL ISSUES:

In my report for SB 42 (2011), I urged the Senate to consider the unusual size of the claim bill (about \$31 million) and the substantial fiscal burden that would be associated with the Legislature's regular passage of \$10, \$20, and \$30 million claim bills, especially for claims that will be paid by local governments. I suggested that a balance should be struck between the principle of sovereign immunity and the principle of fair compensation, and recommended that the award be reduced to \$15 million. It is still my recommendation that the award should not exceed \$15 million, to avoid a precedent for the escalation of claims.

On page 5 of SB 4 is a whereas clause setting forth allegations related to the bad faith claim. Because the bad faith claim was outside the scope of the claim bill hearing and no findings of fact or conclusions of law were made regarding that claim, SB 4 should be amended to delete the whereas clause.

Section 4 of SB 4 directs that half of the State's lien interests will not be waived and that the Claimant's guardianship shall reimburse the state for half of the expenses of Medicaid, Medicare, or the Agency for Health Care Administration. The settlement of lien interests can be a complex matter and is normally not addressed in a claim bill. The settlement of lien interests is negotiable, but is subject to the requirements of federal law. The outcome cannot be dictated by a state. SB 4 should be amended to delete Section 4.

RECOMMENDATION:

For the reasons set forth above, I recommend that Senate Bill 4 (2012) be reported FAVORABLY, as amended.

Respectfully submitted,

Bram D. E. Canter  
Senate Special Master

cc: Senator Lizbeth Benacquisto  
Debbie Brown, Secretary of the Senate  
Counsel of Record

**CS by Rules on November 16, 2011:**

In the enacting clause: deletes language regarding the Broward County Sheriff's Office investigation; corrects Eric Brody's current age to 32; deletes language regarding policy limits; deletes language regarding Ranger Insurance Company; adds language regarding the total amount of the final judgment plus cost judgment; and amends the amount from \$12 million to \$15,575,021.30 that is sought through the submission of the bill.



615420

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/16/2011	.	
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The Committee on Rules (Gardiner) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

Section 2. The Sheriff of Broward County is authorized and directed to appropriate from funds of the Broward County Sheriff's Office not otherwise appropriated and to draw a warrant payable to the Guardianship of Eric Brody for one-half of all amounts that remain unpaid in accordance with the final judgment, plus the cost judgment, in the sum of \$15,575,021.30 as compensation for injuries and damages sustained as a result



615420

14 of the negligence of the Broward County Sheriff's Office.

15 Section 3. The amount to be paid by the Broward County  
16 Sheriff's Office pursuant to s. 768.28, Florida Statutes, and  
17 the amount awarded under this act are intended to provide the  
18 sole compensation for all claims arising out of the facts  
19 described in this act which resulted in the injuries to Eric  
20 Brody. The total amount of attorney's fees, lobbying fees,  
21 costs, and other similar expenses may not exceed 25 percent of  
22 the total amount awarded under section 2 of this act.

23 Section 4. It is the intent of the Legislature that one-  
24 half of the lien interests held by the state resulting from the  
25 treatment and care of Eric Brody for the events described in the  
26 preamble of this act are not waived and extinguished, and the  
27 claimant's guardianship shall reimburse the state for one-half  
28 of the expenses of Medicaid, Medicare, or the Agency for Health  
29 Care Administration pursuant to s. 409.910, Florida Statutes.  
30 The claimant's guardianship shall pay the amount due pursuant to  
31 this act prior to distributing any funds to the claimant.

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

33  
34 ===== T I T L E A M E N D M E N T =====

35 And the title is amended as follows:

36 Delete everything before the enacting clause  
37 and insert:

38 A bill to be entitled  
39 An act for the relief of Eric Brody by the Broward  
40 County Sheriff's Office; providing for an  
41 appropriation to compensate Eric Brody for injuries  
42 sustained as a result of the negligence of the Broward



615420

43 County Sheriff's Office; providing a limitation on the  
44 payment of fees and costs related to the claim against  
45 the Broward County Sheriff's Office; providing  
46 legislative intent regarding lien interests held by  
47 the state; requiring that the guardianship pay a  
48 portion of such liens before distributing funds to the  
49 claimant; providing an effective date.  
50

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

56 WHEREAS, that same evening, Broward County Sheriff's Deputy  
57 Christopher Thieman, who had been visiting his girlfriend and  
58 was running late for duty, was driving his Broward County  
59 Sheriff's Office cruiser westbound on Oakland Park Boulevard. At  
60 the time he left his girlfriend's house, Deputy Thieman had less  
61 than 15 minutes to travel 11 miles to make roll call on time,  
62 which was mandatory pursuant to sheriff's office policy and  
63 procedure, and

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



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72 Boulevard, and

73 WHEREAS, Deputy Thieman, who was traveling in the inside  
74 westbound lane closest to the median, suddenly and inexplicably  
75 steered his vehicle to the right, across the center lane and  
76 into the outside lane, where the front end of his car struck the  
77 passenger side of Eric's car with great force, just behind the  
78 right front wheel and near the passenger door, and

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

83 WHEREAS, in the course of the investigation, the Broward  
84 County Sheriff's Office lost key evidence from the crashed  
85 vehicles and did not report any witnesses even though the first  
86 responders to the crash scene were police officers from the City  
87 of Sunrise, and

88 WHEREAS, the Broward County detective who led the crash  
89 investigation entered inaccurate data into a computerized  
90 accident reconstruction program which skewed the speed that  
91 Deputy Thieman was driving, but, nevertheless, determined that  
92 he was still traveling well over the speed limit, and

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

97 WHEREAS, Eric Brody was found unconscious 6 minutes later  
98 by paramedics, his head and upper torso leaning upright and  
99 toward the passenger-side door. Although he was out of his  
100 shoulder harness and seat belt by the time paramedics arrived,



615420

101 the Brody's attorney proved that Eric was wearing his seat belt  
102 and that the 16-year-old seat belt buckle failed during the  
103 crash. Photographs taken at the scene by the sheriff's office  
104 investigators showed the belt to be fully spooled out because  
105 the retractor was jammed, with the belt dangling outside the  
106 vehicle from the driver-side door, providing proof that Eric  
107 Brody was wearing his seat belt and shoulder harness during the  
108 crash, and

109 WHEREAS, accident reconstruction and human factor experts  
110 called by both the plaintiff and the defendant agreed that if  
111 Deputy Thieman been driving at the speed limit, Eric Brody would  
112 have easily completed his turn, and

113 WHEREAS, the experts also agreed that if Deputy Thieman  
114 simply remained within his lane of travel, regardless of his  
115 speed, there would not have been a collision, and

116 WHEREAS, in order to investigate the seat-belt defense,  
117 experts for Eric Brody recreated the accident using an exact  
118 car-to-car crash test that was conducted by a nationally  
119 recognized crash test facility. The crash test involved vehicles  
120 identical to the Brody and Thieman vehicles, a fully  
121 instrumented hybrid III dummy, and high-speed action cameras,  
122 and

123 WHEREAS, the crash test proved that Eric Brody was wearing  
124 his restraint system during the crash because the seat-belted  
125 test dummy struck its head on the passenger door within inches  
126 of where Eric Brody's head actually struck the passenger door,  
127 and

128 WHEREAS, when Eric Brody's head struck the passenger door  
129 of his vehicle, the door crushed inward from the force of the



615420

130 impact with the police cruiser while at the same time his upper  
131 torso was moving toward the point of impact and the passenger  
132 door. The impact resulted in skull fractures and massive brain  
133 sheering, bleeding, bruising, and swelling, and

134 WHEREAS, Eric Brody was airlifted by helicopter to Broward  
135 General Hospital where he was placed on a ventilator and  
136 underwent an emergency craniotomy and neurosurgery. He began to  
137 recover from a deep coma more than 7 months after his injury and  
138 underwent extensive rehabilitation, having to relearn how to  
139 walk, talk, feed himself, and perform other basic functions, and

140 WHEREAS, Eric Brody, who is now 32 years old, has been left  
141 profoundly brain-injured, lives with his parents, and is mostly  
142 isolated from his former friends and other young people his age.  
143 His speech is barely intelligible and he has significant  
144 cognitive dysfunction, judgment impairment, memory loss, and  
145 neuro-visual disabilities. Eric Brody also has impaired fine and  
146 gross motor skills and very poor balance. Although Eric is able  
147 to use a walker for short distances, he mostly uses a wheelchair  
148 to get around. The entire left side of his body is partially  
149 paralyzed and spastic, and he needs help with many of his daily  
150 functions. Eric Brody is permanently and totally disabled;  
151 however, he has a normal life expectancy, and

152 WHEREAS, the cost of Eric Brody's life care plan is nearly  
153 \$10 million, and he has been left totally dependent on public  
154 health programs and taxpayer assistance since 1998, and

155 WHEREAS, the Broward County Sheriff's Office was insured  
156 for this claim through Ranger Insurance Company and paid more  
157 than \$400,000 for liability coverage, and

158 WHEREAS, on December 1, 2005, after a 2-month trial, a



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159 Broward County jury consisting of three men and three women  
160 found that that Deputy Thieman and the Broward County Sheriff's  
161 Office were 100 percent negligent, and Eric Brody was not  
162 comparatively negligent, and

163 WHEREAS, the jury found Eric Brody's damages to be  
164 \$30,609,298, including a determination that his past and future  
165 care and other economic damages were \$11,326,216, and

166 WHEREAS, final judgment was entered for \$30,609,298, and  
167 the court entered a cost judgment for \$270,372.30, for a total  
168 of \$30,879,670.30, and

169 WHEREAS, the court denied the Broward County Sheriff's  
170 Office posttrial motions for judgment notwithstanding the  
171 verdict, new trial, or remittitur, and

172 WHEREAS, the insurer of the Broward County Sheriff's Office  
173 retained appellate counsel and elected to appeal the final  
174 judgment but not the cost judgment, and

175 WHEREAS, the Fourth District Court of Appeal upheld the  
176 verdict in the fall of 2007, and

177 WHEREAS, the insurer of the Broward County Sheriff's Office  
178 subsequently petitioned the Florida Supreme Court to seek  
179 another appeal, but the petition was denied in April of 2008,  
180 and

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

183 WHEREAS, the Broward County Sheriff's Office has paid  
184 \$200,000 pursuant to s. 768.28, Florida Statutes, and the amount  
185 of \$15,575,021.30 is sought through the submission of a claim  
186 bill to the Legislature, NOW, THEREFORE,

By Senator Benacquisto

27-00005A-12

20124\_\_

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; providing a limitation on the  
 7 payment of fees and costs related to the claim against  
 8 the Broward County Sheriff's Office; providing  
 9 legislative intent regarding lien interests held by  
 10 the state; requiring that the guardianship pay a  
 11 portion of such liens before distributing funds to the  
 12 claimant; providing an effective date.  
 13  
 14 WHEREAS, on the evening of March 3, 1998, 18-year-old Eric  
 15 Brody, a college-bound high school senior, was returning home  
 16 from his part-time job at the Sawgrass Mills Sports Authority.  
 17 Eric was driving his 1982 AMC Concord eastbound on Oakland Park  
 18 Boulevard in Sunrise, Florida, and  
 19 WHEREAS, that same evening, Broward County Sheriff's Deputy  
 20 Christopher Thieman, who had been visiting his girlfriend and  
 21 was running late for duty, was driving his Broward County  
 22 Sheriff's Office cruiser westbound on Oakland Park Boulevard. At  
 23 the time he left his girlfriend's house, Deputy Thieman had less  
 24 than 15 minutes to travel 11 miles to make roll call on time,  
 25 which was mandatory pursuant to sheriff's office policy and  
 26 procedure, and  
 27 WHEREAS, at approximately 10:36 p.m., Eric Brody began to  
 28 make a left-hand turn into his neighborhood at the intersection  
 29 of N.W. 117th Avenue and Oakland Park Boulevard. Deputy Thieman,

Page 1 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-00005A-12

20124\_\_

30 who was driving in excess of the 45-mile-per-hour posted speed  
 31 limit and traveling in the opposite direction, was not within  
 32 the intersection and was more than 430 feet away from Eric  
 33 Brody's car when Eric Brody began the turn. Eric Brody's car  
 34 cleared two of the three westbound lanes on Oakland Park  
 35 Boulevard, and  
 36 WHEREAS, Deputy Thieman, who was traveling in the inside  
 37 westbound lane closest to the median, suddenly and inexplicably  
 38 steered his vehicle to the right, across the center lane and  
 39 into the outside lane, where the front end of his car struck the  
 40 passenger side of Eric's car with great force, just behind the  
 41 right front wheel and near the passenger door, and  
 42 WHEREAS, Deputy Thieman testified at trial that although he  
 43 knew that the posted speed limit was 45 miles per hour, he  
 44 refused to provide an estimate as to how fast he was traveling  
 45 before the crash, and  
 46 WHEREAS, despite the appearance of a conflict of interest,  
 47 the Broward County Sheriff's Office chose to conduct the  
 48 official crash investigation instead of deferring to the City of  
 49 Sunrise Police Department, which also had jurisdiction, or the  
 50 Florida Highway Patrol (FHP), which often investigates motor  
 51 vehicle collisions involving non-FHP law enforcement officers so  
 52 as to avoid any possible conflict of interest, and  
 53 WHEREAS, in the course of the investigation, the Broward  
 54 County Sheriff's Office lost key evidence from the crashed  
 55 vehicles and did not report any witnesses even though the first  
 56 responders to the crash scene were police officers from the City  
 57 of Sunrise, and  
 58 WHEREAS, the Broward County detective who led the crash

Page 2 of 7

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27-00005A-12

20124\_\_

59 investigation entered inaccurate data into a computerized  
60 accident reconstruction program which skewed the speed that  
61 Deputy Thieman was driving, but, nevertheless, determined that  
62 he was still traveling well over the speed limit, and

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

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

79 WHEREAS, accident reconstruction and human factor experts  
80 called by both the plaintiff and the defendant agreed that if  
81 Deputy Thieman been driving at the speed limit, Eric Brody would  
82 have easily completed his turn, and

83 WHEREAS, the experts also agreed that if Deputy Thieman  
84 simply remained within his lane of travel, regardless of his  
85 speed, there would not have been a collision, and

86 WHEREAS, in order to investigate the seat-belt defense,  
87 experts for Eric Brody recreated the accident using an exact

27-00005A-12

20124\_\_

88 car-to-car crash test that was conducted by a nationally  
89 recognized crash test facility. The crash test involved vehicles  
90 identical to the Brody and Thieman vehicles, a fully  
91 instrumented hybrid III dummy, and high-speed action cameras,  
92 and

93 WHEREAS, the crash test proved that Eric Brody was wearing  
94 his restraint system during the crash because the seat-belted  
95 test dummy struck its head on the passenger door within inches  
96 of where Eric Brody's head actually struck the passenger door,  
97 and

98 WHEREAS, when Eric Brody's head struck the passenger door  
99 of his vehicle, the door crushed inward from the force of the  
100 impact with the police cruiser while at the same time his upper  
101 torso was moving toward the point of impact and the passenger  
102 door. The impact resulted in skull fractures and massive brain  
103 sheering, bleeding, bruising, and swelling, and

104 WHEREAS, Eric Brody was airlifted by helicopter to Broward  
105 General Hospital where he was placed on a ventilator and  
106 underwent an emergency craniotomy and neurosurgery. He began to  
107 recover from a deep coma more than 7 months after his injury and  
108 underwent extensive rehabilitation, having to relearn how to  
109 walk, talk, feed himself, and perform other basic functions, and

110 WHEREAS, Eric Brody, who is now 30 years old, has been left  
111 profoundly brain-injured, lives with his parents, and is mostly  
112 isolated from his former friends and other young people his age.  
113 His speech is barely intelligible and he has significant  
114 cognitive dysfunction, judgment impairment, memory loss, and  
115 neuro-visual disabilities. Eric Brody also has impaired fine and  
116 gross motor skills and very poor balance. Although Eric is able

27-00005A-12 20124\_\_

117 to use a walker for short distances, he mostly uses a wheelchair  
 118 to get around. The entire left side of his body is partially  
 119 paralyzed and spastic, and he needs help with many of his daily  
 120 functions. Eric Brody is permanently and totally disabled;  
 121 however, he has a normal life expectancy, and

122 WHEREAS, the cost of Eric Brody's life care plan is nearly  
 123 \$10 million, and he has been left totally dependent on public  
 124 health programs and taxpayer assistance since 1998, and

125 WHEREAS, the Broward County Sheriff's Office was insured  
 126 for this claim through Ranger Insurance Company and paid more  
 127 than \$400,000 for liability coverage that has a policy limit of  
 128 \$3 million, and

129 WHEREAS, Ranger Insurance Company ignored seven demand  
 130 letters and other attempts by the Brodys to settle the case for  
 131 the policy limit, and instead chose to wait for more than 7  
 132 years following the date of the accident until the day the trial  
 133 judge specially set the case for trial before offering to pay  
 134 the policy limit. By that time nearly \$750,000 had been spent  
 135 preparing the case for trial, and Eric Brody had past due bills  
 136 and liens of nearly \$1.5 million for health and rehabilitative  
 137 care services. Because so much money had been spent preparing  
 138 the case for trial, the exorbitant costs of Eric Brody's medical  
 139 bills and liens, and the costs of future care continued to  
 140 escalate, settlement for the policy limit was no longer  
 141 feasible, and

142 WHEREAS, on December 1, 2005, after a 2-month trial, a  
 143 Broward County jury consisting of three men and three women  
 144 found that that Deputy Thieman and the Broward County Sheriff's  
 145 Office were 100 percent negligent, and Eric Brody was not

Page 5 of 7

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27-00005A-12 20124\_\_

146 comparatively negligent, and

147 WHEREAS, the jury found Eric Brody's damages to be  
 148 \$30,609,298, including a determination that his past and future  
 149 care and other economic damages were \$11,326,216, and

150 WHEREAS, final judgment was entered for \$30,609,298, and  
 151 the court entered a cost judgment for \$270,372.30, and

152 WHEREAS, the court denied the Broward County Sheriff's  
 153 Office posttrial motions for judgment notwithstanding the  
 154 verdict, new trial, or remittitur, and

155 WHEREAS, the insurer of the Broward County Sheriff's Office  
 156 retained appellate counsel and elected to appeal the final  
 157 judgment but not the cost judgment, and

158 WHEREAS, the Fourth District Court of Appeal upheld the  
 159 verdict in the fall of 2007, and

160 WHEREAS, the insurer of the Broward County Sheriff's Office  
 161 subsequently petitioned the Florida Supreme Court to seek  
 162 another appeal, but the petition was denied in April of 2008,  
 163 and

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

166 WHEREAS, the Broward County Sheriff's Office has paid  
 167 \$200,000 pursuant to s. 768.28, Florida Statutes, and the amount  
 168 of \$12 million is sought through the submission of a claim bill  
 169 to the Legislature, NOW, THEREFORE,

170

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

172

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

Page 6 of 7

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27-00005A-12 20124

175 Section 2. The Sheriff of Broward County is authorized and  
176 directed to appropriate from funds of the Broward County  
177 Sheriff's Office not otherwise appropriated and to draw a  
178 warrant payable to the Guardianship of Eric Brody for one-half  
179 of all amounts that remain unpaid in accordance with the final  
180 judgment, plus the cost judgment, in the sum of \$15,575,021.30  
181 as compensation for injuries and damages sustained as a result  
182 of the negligence of the Broward County Sheriff's Office.

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

191 Section 4. It is the intent of the Legislature that one-  
192 half of the lien interests held by the state resulting from the  
193 treatment and care of Eric Brody for the events described in the  
194 preamble of this act are not waived and extinguished, and the  
195 claimant's guardianship shall reimburse the state for one-half  
196 of the expenses of Medicaid, Medicare, or the Agency for Health  
197 Care Administration pursuant to s. 409.910, Florida Statutes.  
198 The claimant's guardianship shall pay the amount due pursuant to  
199 this act prior to distributing any funds to the claimant.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/11  
Meeting Date

Topic Brody

Bill Number 4  
*(if applicable)*

Name Marty Cassini

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Consultant

Address 205 S. Adams Street  
*Street*

Phone 850-224-0880

Tallahassee FL 32301  
*City State Zip*

E-mail cmartycassini@gmail.com

Speaking:  For  Against  Information

Representing Broward Sheriff's office

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/11

Meeting Date

Topic \_\_\_\_\_

Bill Number 4  
*(if applicable)*

Name BRAM CANTER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title SPECIAL MASTER

Address \_\_\_\_\_  
*Street*

Phone \_\_\_\_\_

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

*If there are questions,*

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/11  
Meeting Date

Topic CLAIM - Brady

Bill Number 4  
*(if applicable)*

Name PETER ANTONACCI

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title LAWYER - GRAY ROBINSON

Address 301 S Broward

Phone 222-7717

41H  
City State Zip

E-mail PVA@Gray-Robinson.com

Speaking:  For  Against  Information

Representing RANSER Insurance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**COMMITTEE APPEARANCE RECORD**

(Submit to Committee Chair or Administrative Assistant)

11/16/2011  
Date

4  
Bill Number

Barcode

Name BRIAN PITTS

Phone 727/897-9291

Address 8119 Newton Ave S

E-mail \_\_\_\_\_

Street

St Petersburg

FL

State

33705

Zip

Job Title Trustee

Speaking:  For  Against  Information

Appearing at request of Chair

Subject Eric Brody

Representing Justice-2-Jesus

Lobbyist registered with Legislature:  Yes  No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from \_\_\_\_\_ .m. to \_\_\_\_\_ .m.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/16/11

Meeting Date

Topic Eric Brody

Bill Number 4  
*(if applicable)*

Name Lance Block

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Attorney - Eric Brody

Address \_\_\_\_\_  
*Street*

Phone \_\_\_\_\_

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Eric Brody

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

# CourtSmart Tag Report

Room: EL 110  
Caption: Senate Rules Committee

Case:  
Judge:

Type:

Started: 11/16/2011 11:48:20 AM  
Ends: 11/16/2011 12:39:24 PM Length: 00:51:05

11:48:22 AM Chairman Thrasher calls meeting to order  
11:48:27 AM Roll Call  
11:48:52 AM S 2 by Haridopolos  
11:49:01 AM President Haridopolos is recognized to speak on the bill  
11:50:00 AM Chairman Thrasher recognizes Mr. Dillon  
11:50:33 AM Amendment 154026 by Sen Thrasher  
11:50:53 AM Without objection amendment adopted  
11:51:01 AM Amendment 488322 by Sen Thrasher  
11:51:45 AM Sen Siplin recognized  
11:51:53 AM President Haridopolos speaks  
11:52:15 AM Sen Gaetz ask question  
11:52:23 AM Roll Call on Amendment  
11:52:47 AM Amendment adopted  
11:53:05 AM Special Master Bram Canter recognized  
11:53:20 AM Back on the bill as amended  
11:53:34 AM Sen Wise ask question  
11:54:20 AM Sen Negrón answers question  
11:54:55 AM Sen Wise speaks  
11:55:30 AM Sen Gaetz speaks  
11:56:49 AM Sen Gaetz moves the bill  
11:56:57 AM Sen Bullard speaks to the bill  
11:58:18 AM Mr Brian Pitts, Justice-2-Jesus supports the bill  
12:00:42 PM Sen Thrasher speaks on the bill  
12:00:50 PM President Haridopolos closes on the bill  
12:01:30 PM Roll Call on S 2  
12:01:37 PM CS S 2  
12:01:42 PM S 2 passes  
12:02:13 PM Sen Wise speaks on CS/SB 116  
12:03:39 PM No questions on the bill  
12:03:51 PM Mr. Chris Chambless, Supervisor of elections, Clay speaks on the bill  
12:04:21 PM Sen Wise closes on bill  
12:04:27 PM Roll call on bill  
12:04:35 PM CS/SB 116 passes  
12:04:53 PM S 4 by Sen Benacquisto  
12:05:18 PM Sen Benacquisto speaks on the bill  
12:06:52 PM Questions on the strike all  
12:07:00 PM Strike all amendment adopted without objection  
12:07:08 PM Mr Bram Canter recognized  
12:07:24 PM Mr. Peter Antonacci from Gray Robinson speaks on the bill  
12:19:32 PM Sen Bullard questions Mr. Antonacci  
12:20:40 PM Mr. Marty Cassini of Broward County Sheriff's office speaks  
12:20:57 PM Sen Gaetz questions Sheriff's office  
12:21:18 PM Mr. Marty Cassini answers question  
12:21:26 PM Sen Bullard questions  
12:21:36 PM Sen Thrasher answers  
12:21:45 PM Mr. Brian Pitts Justice-2- Jesus comments on the bill  
12:22:55 PM Sen Thrasher makes bill a CS  
12:23:13 PM Sen Gaetz debates the bill  
12:24:08 PM Sen Benacquisto answers questions  
12:25:22 PM Mr. Block representing the Brody's answers questions  
12:28:00 PM Sen Gaetz with followup  
12:28:09 PM Mr. Block answers

**12:29:46 PM** Sen Gaetz questions Mr. Block  
**12:30:05 PM** Mr. Block answers question  
**12:30:26 PM** Sen Gaetz with a followup  
**12:30:31 PM** Mr. Block answers question  
**12:31:19 PM** Sen Gaetz with a followup  
**12:31:36 PM** Mr. Block answers questions  
**12:32:26 PM** Sen Thrasher qualifies question  
**12:32:46 PM** Sen Bullard questions Mr. Block  
**12:34:05 PM** Mr. Block answer questions  
**12:35:11 PM** Sen Bullard with a followup  
**12:35:57 PM** Mr. Blocks responds  
**12:36:36 PM** Sen Benacquisto closes on the bill  
**12:37:52 PM** Sen Thrasher comments on the bill  
**12:38:42 PM** Roll Call on S 4  
**12:38:54 PM** S 4 passes  
**12:39:13 PM** Sen Wise moves we rise



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Judiciary, *Chair*  
Budget  
Budget - Subcommittee on Education Pre-K - 12  
Appropriations  
Commerce and Tourism  
Communications, Energy, and Public Utilities  
Governmental Oversight and Accountability  
Reapportionment  
Rules

## SENATOR ANITERE FLORES

*Majority Whip*  
38th District

September 12, 2011

*ah  
ju!*

RECEIVED  
SEP 16 2011  
SENATE  
RULES COMMITTEE

The Honorable John Thrasher  
Chair of Committee on Rules  
402 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Thrasher:

I respectfully request to be excused from the Committee on Rules during the months of September, October and November. I have been informed by my doctor that I should refrain from travel until after I have given birth which is expected to be at the end of October.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Anitere Flores

CC: Mr. John B. Phelps, Staff Director, Committee on Rules

REPLY TO:

- 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

MIKE HARIDOPOLOS  
President of the Senate

MICHAEL S. "MIKE" BENNETT  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations,  
*Vice Chair*  
Reapportionment, *Vice Chair*  
Banking and Insurance  
Budget  
Budget - Subcommittee on Finance and Tax  
Communications, Energy, and Public Utilities  
Criminal Justice  
Governmental Oversight and Accountability  
Rules

### SENATOR GWEN MARGOLIS

35th District

November 16, 2011

Chair Thrasher,

Please excuse my absence from the Rules Committee meeting. I am still home recovering from hip replacement surgery.

My Legislative staff will be in Tallahassee in my absence and should you need anything, please do not hesitate to contact them.

I look forward to seeing you at the next committee meeting.

Thank you again for your continued support and understanding.

Sincerely,

A handwritten signature in cursive script that reads "Senator Gwen Margolis".

Gwen Margolis  
State Senator

Handwritten initials "OK" and a signature that appears to be "Michael Bennett".

#### REPLY TO:

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5121

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

MIKE HARIDOPOLOS  
President of the Senate

MICHAEL S. "MIKE" BENNETT  
President Pro Tempore