

By Senator Garcia

38-00168A-16

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1 A bill to be entitled

2 An act for the relief of Susana Castillo, as personal
3 representative of the Estate of Andrea Castillo;
4 providing for an appropriation to compensate the
5 Estate of Andrea Castillo for her death as a result of
6 the negligence of the City of Hialeah; providing a
7 limitation on the payment of fees and costs; providing
8 that the amounts awarded are intended to provide the
9 sole compensation for all present and future claims
10 related to the wrongful death of Andrea Castillo;
11 providing an effective date.
12

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

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

23 WHEREAS, Officer Somarriba does not recall being in pursuit
24 of any suspect or vehicle, and records and dispatch
25 communications do not indicate otherwise, and, in any case, the
26 speed at which he was traveling violated General Order No. 17.06
27 of the City of Hialeah Police Department Vehicle Pursuit
28 Protocols, which governs authorized pursuit, and

29 WHEREAS, Officer Somarriba did not activate the emergency

38-00168A-16

201644__

30 lights or siren and, while traveling significantly over the
31 speed limit, crashed into the driver's side of the Jeep Compass
32 driven by Marco Barrios while it was crossing the eastbound
33 lanes of E 49th Street, and

34 WHEREAS, the severe impact of the collision forced the Jeep
35 to flip repeatedly and collide with several vehicles parked at
36 an adjacent car dealership before coming to rest on its side,
37 and

38 WHEREAS, the force of the crash was so great that Marco
39 Barrios was gravely injured and Andrea Castillo was internally
40 ejected from her seat and discovered in the back hatch area of
41 the vehicle with massive blunt trauma injuries to her head and
42 torso, and

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

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

52 WHEREAS, a toxicology test conducted in the course of the
53 homicide investigation determined that Marco Barrios was not
54 impaired by alcohol or any other substance at the time of the
55 crash, and

56 WHEREAS, the Hialeah Police Department failed to seek or
57 request preservation of Officer Somarriba's blood samples within
58 the 6-day preservation period protocol observed by Ryder Trauma

38-00168A-16

201644__

59 Center for the retention of such samples, thereby losing the
60 opportunity to test Officer Somarriba for intoxicants, and

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

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

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

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

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

87 WHEREAS, following litigation and mediation of their

38-00168A-16

201644__

88 disputes, the parties to such actions on June 9, 2015, entered
89 into a settlement agreement, which agreement was approved by the
90 Hialeah City Council, and

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

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

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

105

106

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

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

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

38-00168A-16

201644__

117 and damages sustained as a result of the death of Andrea
118 Castillo. The amount of \$150,000 shall be paid on May 1, 2016,
119 the amount of \$150,000 shall be paid on May 1, 2017, and the
120 final payment amount of \$155,000 shall be paid on May 1, 2018.

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

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

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