

Tab 1	SB 14 by Rodriguez ; Identical to H 06521 Relief of Jose Correa by Miami-Dade County
Tab 2	SB 16 by Rouson ; Identical to H 06517 Relief of Heriberto A. Sanchez-Mayen by the City of St. Petersburg
Tab 3	SB 24 by Gruters ; Identical to H 06515 Relief of Lourdes Latour and Edward Latour by Miami-Dade County
Tab 4	SB 208 by McClain ; Compare to H 00399 Land Use and Development Regulations
378440	D S LRCS JU, McClain Delete everything after 01/12 05:06 PM
Tab 5	SB 762 by Martin ; Similar to H 00177 Offices of Criminal Conflict and Civil Regional Counsel
250350	D S RCS JU, Martin Delete everything after 01/12 05:06 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Yarborough, Chair
Senator Burton, Vice Chair

MEETING DATE: Monday, January 12, 2026

TIME: 4:00—6:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Yarborough, Chair; Senator Burton, Vice Chair; Senators Berman, DiCeglie, Gaetz, Hooper, Leek, Osgood, Passidomo, Polsky, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 14 Rodriguez (Identical H 6521)	<p>Relief of Jose Correa by Miami-Dade County; Providing for the relief of Jose Correa by Miami-Dade County; providing an appropriation to compensate Mr. Correa for injuries sustained as a result of the negligence of an employee of Miami-Dade County; providing a limitation on the payment of compensation and certain fees, etc.</p> <p>SM JU 01/12/2026 Favorable CA RC</p>	<p style="text-align: center;">Favorable Yea 9 Nays 1</p>
2	SB 16 Rouson (Identical H 6517)	<p>Relief of Heriberto A. Sanchez-Mayen by the City of St. Petersburg; Providing for the relief of Heriberto A. Sanchez-Mayen by the City of St. Petersburg; providing for an appropriation to compensate Mr. Sanchez-Mayen for injuries sustained as a result of the negligence of the City of St. Petersburg; providing a limitation on compensation and the payment of attorney fees, etc.</p> <p>SM JU 01/12/2026 Favorable CA RC</p>	<p style="text-align: center;">Favorable Yea 9 Nays 1</p>
3	SB 24 Gruters (Identical H 6515)	<p>Relief of Lourdes Latour and Edward Latour by Miami-Dade County; Providing for the relief of Lourdes Latour and Edward Latour by Miami-Dade County; providing an appropriation to compensate Mr. and Mrs. Latour for injuries sustained as a result of the negligence of Miami-Dade County; providing a limitation on compensation and the payment of attorney fees, etc.</p> <p>SM JU 01/12/2026 Favorable CA RC</p>	<p style="text-align: center;">Favorable Yea 9 Nays 1</p>

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Monday, January 12, 2026, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 208 McClain (Compare H 399)	Land Use and Development Regulations; Prohibiting local land development regulations from requiring the denial of, or conditioning or delaying the approval of, residential development on the basis of a lack of compatibility under certain circumstances; revising the circumstances under which land development regulations may be applied to a single-family or two-family dwelling; prohibiting local land development regulations from conditioning the approval of an application for certain residential development on the payment of certain fees, charges, or exactions; requiring that a fee or charge imposed by a local government in connection with the review, processing, or inspection of a residential development application meet certain requirements, etc.	Fav/CS Yea 10 Nays 0
5	SB 762 Martin (Similar H 177)	Offices of Criminal Conflict and Civil Regional Counsel; Authorizing appointments from the office of criminal conflict and civil regional counsel in other regions for certain cases in certain circumstances; requiring such counsel to provide certain documentation to the Justice Administrative Commission for reimbursement; requiring each regional office that accepts such appointments to annually submit a specified report to the commission; requiring the commission to submit copies of such reports to the Legislature, etc.	Fav/CS Yea 9 Nays 1

Other Related Meeting Documents



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

409 The Capitol

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
1/5/26	SM	Favorable
1/12/26	JU	Favorable

January 5, 2026

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 14** – Senator Ana Maria Rodriguez
HB 6521 – Representative Blanco
Relief of Jose Correa by Miami-Dade County

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR \$4.1 MILLION. THE CLAIMANT, JOSE CORREA, SEEKS DAMAGES FROM MIAMI-DADE COUNTY FOR PERSONAL INJURIES CAUSED BY THE NEGLIGENT OPERATION OF A MIAMI-DADE COUNTY BUS DRIVEN BY A COUNTY EMPLOYEE.

UPDATE TO PRIOR REPORT:

On January 30, 2025, a de novo hearing was held on a previous version of this bill, SB 6 (2025). After the hearing, a report was issued containing findings of fact and conclusions of law. The report found the requested amount of \$4,100,000 was reasonable. That report is attached as an addendum to this report.

Since that time, the Senate President has reassigned the claim to the undersigned to review records and determine whether any changes have occurred since the hearing that, if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

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According to information received, no such changes have occurred since the hearing.

Respectfully submitted,

/s/ Carter McMillan
Senate Special Master

cc: Secretary of the Senate



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

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(850) 487-5229

DATE	COMM	ACTION
3/20/25	SM	Favorable
3/25/25	JU	Favorable
	CA	
	RC	

March 20, 2025

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 6** – Senator Ana Maria Rodriguez
HB 6517 – Representative Busatta
Relief of Jose Correa by Miami-Dade County

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR \$4.1 MILLION. THE CLAIMANT, JOSE CORREA, SEEKS DAMAGES FROM MIAMI-DADE COUNTY FOR PERSONAL INJURIES CAUSED BY THE NEGLIGENT OPERATION OF A MIAMI-DADE COUNTY BUS DRIVEN BY A COUNTY EMPLOYEE.

FINDINGS OF FACT:

Jose Correa, a 61-year-old, was a pedestrian injured in a bus accident involving an in-service Miami-Dade County bus that was driven by an on-duty Miami-Dade County bus driver. Mr. Correa's injuries include a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain. A Miami-Dade County bus driver, Traci Constant, contributed to the injuries Mr. Correa sustained.

The Accident on December 16, 2021

At approximately 12:00 p.m., on December 16, 2021, Jose Correa was walking home and crossing the street at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when he was struck by a bus operated by Traci

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Constant, an on-duty Miami-Dade County bus driver.¹ Mr. Correa was crossing the roadway within the crosswalk at the time of the accident, and witnesses indicated that it was a clear and sunny day.²

Prior to the accident, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out onto the intersection to wait for northbound traffic to clear, however, when she made the left turn, the traffic light was red.³

Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus.⁴ The Traffic Homicide Report indicates that Mr. Correa walked across the crosswalk with a “do not cross” red hand (to stop/do not cross).⁵ However, during the claim bill hearing held on January 30, 2025, the claimant’s attorney asserted that the pedestrian crosswalk traffic signal was not working properly.⁶

At collision, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa’s left leg until the bus came to a controlled stop.⁷ The Coral Gables Fire Rescue (Engine #4 and Rescue #2) responded to the accident and administered first aid. Mr. Correa was then transported to Jackson Memorial Hospital – Ryder Trauma Unit.⁸

¹ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

³ See *Id*; see also Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁴ *Id*.

⁵ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁶ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 18:08-19:32. During the claim bill hearing, the claimant’s attorney indicated that they hired a private investigator to take a video of the traffic signal not working properly. This video was not taken on the day of the accident but on a later date. However, the Special Masters never received this video to add into evidence.

⁷ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁸ Patient Care Record, Coral Gables Fire Department, Incident Number 21008649 (Dec. 16, 2021).

Prior to the Accident

During the claim bill hearing, the respondent's counsel stated that on the morning of the accident at approximately 11:45 a.m., Mr. Correa walked to a nearby 7-Eleven where a police officer, Officer Smith, witnessed Mr. Correa "swaying" and indicated that Mr. Correa was visibly intoxicated.⁹ However, Mr. Correa stated that he did not have any alcohol on the day of the accident.¹⁰

Disciplinary Action Report and Hearing

Ms. Constant was suspended for 10 days following a "Miami-Dade County Disciplinary Action Report" dated January 13, 2022, and a "Disciplinary Hearing" that was held on March 4, 2022. The report indicates that Ms. Constant's actions on the day of the "accident" constituted a violation of Miami-Dade County Personnel Rules, and the accident was deemed preventable by the Accident Grading Committee.¹¹

Traffic Homicide Report

The traffic homicide report provides that the roadway was free of defects or obstructions which would have affected the collision, the bus appeared to have been in good operating condition, and Ms. Constant was operating the bus with no apparent impairments.¹² Additionally, the homicide report indicates that Mr. Correa violated the visible red "do-not-walk" crosswalk traffic signal.¹³ During a deposition taken on August 10, 2023, the traffic homicide detective, Detective Quinones, stated that he took a video on the day of the accident to demonstrate that the crosswalk traffic signal was working

⁹ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 1:09:01-1:11:47. During the claim bill hearing, respondent's counsel read Officer Smith's statement aloud. See also Officer Smith recorded statement from the scene of the accident (Dec. 16, 2021).

¹⁰ See *id.* at 24:10-24:20. Additionally, no evidence was submitted to demonstrate that a blood alcohol test was ever administered to Mr. Correa after the accident.

¹¹ See Disciplinary Action Report, Miami-Dade County, Transportation and Public Work Department, Division Number 06771031, Traci Constant (Jan 13, 2022). See also Memorandum, Miami-Dade County, MDT Bus Operations, Disciplinary Hearing, Bus Operator Traci Constant (March 4, 2022).

¹² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

¹³ *Id.*

properly.¹⁴ The traffic homicide report also lists “severe signs of impairment” as “probable cause,” and states that Officer Smith observed Mr. Correa as being intoxicated moments before the collision.¹⁵ Ultimately, the traffic homicide report attributes fault to Ms. Constant and Mr. Correa.¹⁶

Medical Injuries

Mr. Correa suffered extensive injuries, including a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain.¹⁷ During the claim bill hearing, Mr. Correa indicated that Medicare covered most of his medical expenses.¹⁸ However, the claimant’s attorney provided financial data and projected Mr. Correa’s total past medical liens to be approximately \$339,416.¹⁹

Current and Future Needs

Currently, Mr. Correa is living in an assisted living facility, but he would like to live on his own again.²⁰ During the claim bill hearing, Mr. Correa explained that his prosthetic does not fit him properly due to skin integrity issues.²¹ However, he hopes to get those problems addressed and corrected.²² The claimant’s attorney provided a life care evaluation that estimates Mr. Correa’s “present value of future loss” to be approximately \$4,051,261.²³ Additionally, Mr. Correa and his sister testified that the claimant’s quality of life has dramatically decreased since the accident in December of 2021.²⁴

¹⁴ See Quinones Deposition, 27-30 (Aug. 10, 2023).

¹⁵ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

¹⁶ *Id.*

¹⁷ See Claimant’s Summary of the Case; see also Special Master Claim Bill Hearing (Jan. 30, 2025).

¹⁸ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 51:28.

¹⁹ See *id.* at 55:00. In the Claim Bill Hearing the Claimant’s attorney stated that Mr. Correa’s Medicaid lien was approximately \$339,416, and all other past expenses have been satisfied. The “Claimant’s Summary of the Case” indicates that Mr. Correa’s past medical bills are approximately \$1,300,000.

²⁰ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 44:38-48:07.

²¹ See *id.* at 38:40-42:00.

²² *Id.*

²³ See Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023).

²⁴ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025). Mr. Correa and his sister testified regarding the claimant’s quality of life. Prior to the accident, Mr. Correa enjoyed being

LITIGATION HISTORY:

A lawsuit was filed in July of 2022, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, case no. 2022-013508-CA-01, styled *Jose Correa v. Miami-Dade County*. The complaint asserted vicarious liability negligence claims on behalf of Mr. Correa against Miami-Dade County. The complaint further alleged that Miami-Dade County's employee, Traci Constant, carelessly and negligently struck Mr. Correa while she was driving a Miami-Dade County passenger bus. As a result, the complaint provides that Mr. Correa suffered great bodily injury, pain, disability, disfigurement, mental anguish, and the loss of the capacity for the enjoyment of life.

Release of all Claims and Settlement Agreement

On March 25, 2024, Mr. Correa signed a "release" to release and discharge Miami-Dade County from liability related to the facts in Circuit Court Case 2022-013508-CA-01.²⁵ Pursuant to that "release," the claimant received \$200,000 from Miami-Dade County, and the respondent agreed to support a claim bill in the amount of \$4,100,000.²⁶

Section 768.28 of the Florida Statutes limits the amount of damages that a claimant can collect from a local government as a result of its negligence or the negligence of its employees to \$200,000 for one individual, and \$300,000 for all claims or judgments arising out of the same incident. Funds in excess of this limit may only be paid upon approval of a claim bill by the Legislature.

On November 25, 2024, a "notice of voluntary dismissal with prejudice" was entered in Circuit Court Case 2022-013508-CA-01.

On March 13, 2025, the attorneys for both parties executed and signed a letter stating that everything enclosed in the March 25, 2024, "Release" is considered a settlement agreement between Miami-Dade County and Mr. Correa.

active and had an active lifestyle. Additionally, both the claimant and his sister testified that Mr. Correa has had a difficult time mentally and emotionally post-accident.

²⁵ Release of All Claims, Jose Correa v. Miami-Dade County, Case No. 22-013508-CA-01 (Mar. 25, 2024).

²⁶ *Id.*

Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000.²⁷

CONCLUSIONS OF LAW:

The claim bill hearing held on January 30, 2025, was a *de novo* proceeding to determine whether Miami-Dade County is liable for negligence damages caused by its employee, Traci Constant acting within the scope of her employment, to the claimant, and, if so, whether the amount of the claim is reasonable. This report is based on evidence presented to the Special Master prior to, during, and after the hearing. The Legislature is not bound by settlements or jury verdicts when considering a claim bill, the passage of which is an act of legislative grace.

Under the legal doctrine of *respondeat superior*, Miami-Dade County is responsible for the wrongful acts of its employees when the acts are committed within the scope of their employment. Because Ms. Constant was operating a bus in the course and scope of her employment at the time of the accident and because the bus was owned by Miami-Dade County, the County is responsible for any wrongful acts, including negligence, committed by Ms. Constant.

Negligence

There are four elements to a negligence claim: (1) duty – where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach – which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation – where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages – actual harm.²⁸

The plaintiff bears the burden of proving, by the greater weight of the evidence, that the defendant's action was a breach of the duty that the defendant owed to the plaintiff. The "greater weight of the evidence" burden of proof "means the more persuasive and convincing force and effect of the entire evidence in the case."²⁹

²⁷ Miami-Dade County's Summary, Positions, and Insurance Statement, Senate Bill 6; see also Correa Special Master Claim Bill Hearing (Jan. 30, 2025).

²⁸ *Williams v. Davis*, 974 So.2d 1052, at 1056-1057 (Fla. 2007); see also Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

²⁹ Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

In this case, Miami-Dade County's liability depends on whether Ms. Constant negligently operated the County's bus and whether that negligent operation caused Mr. Correa's resulting injuries.

Duty

A legal duty may arise from statutes or regulations; common law interpretations of statutes or regulations; other common law precedent; and the general facts of the case.³⁰

In this case, Ms. Constant was responsible for the duty of reasonable care to others while driving her Miami-Dade County bus. In accordance with Miami-Dade County Personnel Rules, Ms. Constant had a reasonable duty to observe "safe driving practices," including a duty against "making right or left turns on red traffic signals," a duty to "use caution before entering intersections," and a duty to give pedestrians the right-of-way. Additionally, in accordance with the Metrobus Operation Rules and Procedures Manual, Ms. Constant had a reasonable duty to not enter an intersection unless she knew the bus could get completely across if the signal changed to red, and a duty to never run a red or yellow light.

Section 316.075(1)(c), of the Florida Statutes, provides that:

[t]he driver of a vehicle facing a steady red signal shall stop before entering the crosswalk and remain stopped to allow a pedestrian, with a permitted signal, to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger...[u]nless otherwise directed by a pedestrian control signal..., pedestrians facing a steady red signal must not enter the roadway.

Section 316.075(1)(a), of the Florida Statutes, provides that:

[v]ehicular traffic facing a circular green signal may proceed cautiously straight through or turn right or left unless a sign at such place prohibits

³⁰ *McClain v. Florida Power Corp.*, 593 So.2d 500, 503 n. 2 (Fla. 1992).

either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

Section 316.075(1)(b), of the Florida Statutes, provides that “[v]ehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic must not enter the intersection.”

Breach

The undersigned finds that Ms. Constant breached the duty of care owed to Mr. Correa.

As stated above, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out into the intersection to wait for northbound traffic to clear; however, when she made the left turn, the traffic light was red. Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus. Then, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa's left leg until the bus came to a controlled stop.

Causation

Mr. Correa's injuries were the natural and direct consequence of Ms. Constant's breach of her duty. Ms. Constant was acting within the scope of her employment at the time of the accident. Miami-Dade County, as the employer, is liable for damages caused by its employee's negligent act.

Damages

A plaintiff's damages are computed by adding these elements together:

Economic Damages

- Past Medical Expenses

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- Future Medical Expenses

Non-Economic Damages

- Past Pain and Suffering and Loss of Enjoyment of Life
- Future Pain and Suffering and Loss of Enjoyment of Life

The claimant's attorney provided financial data and projected Mr. Correa's total past medical liens to be approximately \$339,416, and projected his total future medical expenses to be approximately \$4,051,261.³¹

No evidence was presented or available indicating the damages authorized by the settlement agreement are excessive or inappropriate.³²

Comparative Negligence

Comparative negligence is the legal theory that a defendant may diminish his or her responsibility to an injured plaintiff by demonstrating that another person, sometimes the plaintiff and sometimes another defendant or even an unnamed party, was also negligent and that negligence contributed to the plaintiff's injuries. The goal of proving a successful comparative negligence defense is to hold other people responsible for the injuries they cause to a plaintiff. By apportioning damages among all who are at fault, it will ultimately reduce the amount of damages owed by a defendant.³³

If this case had proceeded to trial, it would likely have been disputed that Ms. Constant was solely at fault in the collision or solely responsible for Mr. Correa's injuries and

³¹ In the Claim Bill Hearing the Claimant's attorney stated that Mr. Correa's Medicaid lien was approximately \$339,416. The "Claimant's Summary of the Case" indicates that Mr. Correa's past medical bills are approximately \$1,300,000. See also Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). The "Summary of the Past and Present Value of Future Economic Loss to Jose Correa" states that the estimated total of future loss is \$4,051,261, however, this is the amount Mr. Correa is expected to be billed but does not factor in any potential outside assistance (i.e. Medicare). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023). See also s. 409.910(11)(f), F.S., which provides for recovery in a tort action when Medicaid has provided medical goods and services to a plaintiff who is a Medicaid recipient.

³² See *Estate of Dougherty v. WCA of Florida, LLC*. (Fla. Cir. Ct. 2018). See also *Fernandez v. BFI Waste Systems of North America, Inc.* (Fla. Cir. Ct. 2000). See also *Gold v. Duncan; Sara Lee; Bryan Foods, Inc.* (Fla. Cir. Ct. 1991),

³³ Section 768.81, of the Florida Statutes, is the comparative fault statute. The apportionment of damages is established in section 768.81(3), of the Florida Statutes.

damages.³⁴ Miami-Dade County raised the affirmative defense of comparative negligence in its Answer to the Plaintiffs' Complaint to reduce the County's liability in causing the accident and its responsibility for Mr. Correa's damages.

Section 768.36(2), of the Florida Statutes, provides that:

"[i]n any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

- (a) The plaintiff was under the influence of any alcoholic beverage...to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and
- (b) As a result of the influence of such alcoholic beverage the plaintiff was more than 50 percent at fault for his or her own harm.³⁵

Section 316.130(1), of the Florida Statutes., provides that a pedestrian must "obey the instructions of any official traffic control device specifically applicable to the pedestrian unless otherwise directed by a police officer." Additionally, section 316.075(1)(c), of the Florida Statutes, states that a pedestrian facing a steady red signal may not enter the roadway.

Mr. Correa violated s. 316.130(1), F.S., by entering the roadway with a steady red signal, and is no more than 50 percent at fault for his injuries. However, Ms. Constant had a heightened duty to adhere to the requirements of the Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way, and as stated above, Ms. Constant breached that duty.

Ultimately, the following was established by the greater weight of the evidence; Mr. Correa was negligent when he entered

³⁴ See Miami-Dade County's Summary, Positions, and Insurance Statement.

³⁵ See s. 768.36(2), F.S. It is unclear whether Mr. Correa had been drinking prior to the accident and on the day of the accident. The recorded statement by Officer Smith indicated that Mr. Correa was "swaying" and was potentially intoxicated, however, evidence of an alcohol toxicology was not entered into the record. Additionally, at the claim bill hearing, Mr. Correa testified that he did not have any alcohol on the day of the accident.

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the crosswalk with a steady red signal; and Ms. Constant was negligent when she pulled into the intersection and turned left when the traffic light was red.³⁶ The parties entered into a signed settlement agreement, and Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000. Thus, the settled claim amount of \$4,100,000 to be paid by Miami-Dade County seems reasonable based on the evidence presented, including any comparative negligence, and in taking into consideration the unpredictable nature of juries.³⁷

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded. The claimant's attorney has agreed to limit fees to 25 percent of any amount awarded by the Legislature. Additionally, lobbying fees will be limited to 7 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

Based on the foregoing, the undersigned recommends that Senate Bill 6 be reported FAVORABLY.

³⁶ As stated above, Ms. Constant owed Mr. Correa a heightened duty of care as established by Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way.

³⁷ See *Estate of Dougherty v. WCA of Florida, LLC.*, 2018 WL 6925662 (Fla. Cir. Ct.), where a bicyclist was struck and killed by a truck as she was trying to get from the bike lane to the crosswalk and the truck driver failed to yield, failed to check his mirrors, failed to use his turn signal, and failed to slow down as he executed his turn. The Defense claimed that Dougherty made a sudden turn that put her bicycle in the path of the truck and that tests showed that Dougherty had both alcohol and cocaine in her system at the time of the crash. The jury found the plaintiff was "not under the influence of cocaine and/or alcohol to the extent that her normal faculties were impaired or that she had a blood alcohol level of 0.08 or higher" and was 20 percent negligent and the defendant was found to be 80 percent negligent, and awarded \$25,000,000 to the plaintiffs for the wrongful death of their daughter. See also *Fernandez v. BFI Waste Systems of North America, Inc.*, 2000 WL 33268233 (Fla. Cir. Ct.), where a 70 year old retired woman suffered injuries after she was struck while crossing a roadway outside of the crosswalk by the defendant recycling truck. In *Fernandez*, the jury found the plaintiff to be 50 percent negligent and the jury awarded \$1,487,000 to the plaintiff. The case was settled after trial for \$725,000. See also *Gold v. Duncan, Sara Lee, and Bryan Foods, Inc.*, 1992 WL 737190 (Fla. Cir. Ct.), where an 88 year old woman suffered an amputated right arm and her left arm was rendered useless as a result of being struck by a tractor-trailer driven by the defendant and owned by the co-defendants. The defendant had been stopped at a traffic light waiting to turn, and the plaintiff was waiting to cross the roadway. When the light turned green, the defendant started to execute a wide turn. When the plaintiff started to walk forward, she was struck, and the rear wheels of the trailer ran over her arms. The plaintiff contended that she did not think the truck was turning. The defendant alleged that the plaintiff walked into the truck, and two eyewitnesses stated that the plaintiff began walking after the truck was blocking the crosswalk. The plaintiff was found 50 percent negligent, and the award was reduced to \$2,000,000.

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Respectfully submitted,

/s/ Carter McMillan
Senate Special Master

cc: Secretary of the Senate



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

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March 20, 2025

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 6** – Senator Ana Maria Rodriguez
HB 6514 – Representative Busatta
Relief of Jose Correa by Miami-Dade County

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR \$4.1 MILLION. THE CLAIMANT, JOSE CORREA, SEEKS DAMAGES FROM MIAMI-DADE COUNTY FOR PERSONAL INJURIES CAUSED BY THE NEGLIGENT OPERATION OF A MIAMI-DADE COUNTY BUS DRIVEN BY A COUNTY EMPLOYEE.

FINDINGS OF FACT:

Jose Correa, a 61-year-old, was a pedestrian injured in a bus accident involving an in-service Miami-Dade County bus that was driven by an on-duty Miami-Dade County bus driver. Mr. Correa's injuries include a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain. A Miami-Dade County bus driver, Traci Constant, contributed to the injuries Mr. Correa sustained.

The Accident on December 16, 2021

At approximately 12:00 p.m., on December 16, 2021, Jose Correa was walking home and crossing the street at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when he was struck by a bus operated by Traci

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Constant, an on-duty Miami-Dade County bus driver.³⁸ Mr. Correa was crossing the roadway within the crosswalk at the time of the accident, and witnesses indicated that it was a clear and sunny day.³⁹

Prior to the accident, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out onto the intersection to wait for northbound traffic to clear, however, when she made the left turn, the traffic light was red.⁴⁰

Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus.⁴¹ The Traffic Homicide Report indicates that Mr. Correa walked across the crosswalk with a “do not cross” red hand (to stop/do not cross).⁴² However, during the claim bill hearing held on January 30, 2025, the claimant’s attorney asserted that the pedestrian crosswalk traffic signal was not working properly.⁴³

At collision, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa’s left leg until the bus came to a controlled stop.⁴⁴ The Coral Gables Fire Rescue (Engine #4 and Rescue #2) responded to the accident and administered first aid. Mr. Correa was then transported to Jackson Memorial Hospital – Ryder Trauma Unit.⁴⁵

³⁸ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

³⁹ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁴⁰ See *Id*; see also Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁴¹ *Id*.

⁴² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁴³ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 18:08-19:32. During the claim bill hearing, the claimant’s attorney indicated that they hired a private investigator to take a video of the traffic signal not working properly. This video was not taken on the day of the accident but on a later date. However, the Special Masters never received this video to add into evidence.

⁴⁴ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁴⁵ Patient Care Record, Coral Gables Fire Department, Incident Number 21008649 (Dec. 16, 2021).

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Prior to the Accident

During the claim bill hearing, the respondent's counsel stated that on the morning of the accident at approximately 11:45 a.m., Mr. Correa walked to a nearby 7-Eleven where a police officer, Officer Smith, witnessed Mr. Correa "swaying" and indicated that Mr. Correa was visibly intoxicated.⁴⁶ However, Mr. Correa stated that he did not have any alcohol on the day of the accident.⁴⁷

Disciplinary Action Report and Hearing

Ms. Constant was suspended for 10 days following a "Miami-Dade County Disciplinary Action Report" dated January 13, 2022, and a "Disciplinary Hearing" that was held on March 4, 2022. The report indicates that Ms. Constant's actions on the day of the "accident" constituted a violation of Miami-Dade County Personnel Rules, and the accident was deemed preventable by the Accident Grading Committee.⁴⁸

Traffic Homicide Report

The traffic homicide report provides that the roadway was free of defects or obstructions which would have affected the collision, the bus appeared to have been in good operating condition, and Ms. Constant was operating the bus with no apparent impairments.⁴⁹ Additionally, the homicide report indicates that Mr. Correa violated the visible red "do-not-walk" crosswalk traffic signal.⁵⁰ During a deposition taken on August 10, 2023, the traffic homicide detective, Detective Quinones, stated that he took a video on the day of the accident to demonstrate that the crosswalk traffic signal was working properly.⁵¹ The traffic homicide report also lists "severe signs of impairment" as "probable cause," and states that Officer Smith observed Mr. Correa as being intoxicated moments

⁴⁶ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 1:09:01-1:11:47. During the claim bill hearing, respondent's counsel read Officer Smith's statement aloud. See also Officer Smith recorded statement from the scene of the accident (Dec. 16, 2021).

⁴⁷ See *id.* at 24:10-24:20. Additionally, no evidence was submitted to demonstrate that a blood alcohol test was ever administered to Mr. Correa after the accident.

⁴⁸ See Disciplinary Action Report, Miami-Dade County, Transportation and Public Work Department, Division Number 06771031, Traci Constant (Jan 13, 2022). See also Memorandum, Miami-Dade County, MDT Bus Operations, Disciplinary Hearing, Bus Operator Traci Constant (March 4, 2022).

⁴⁹ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁵⁰ *Id.*

⁵¹ See Quinones Deposition, 27-30 (Aug. 10, 2023).

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before the collision.⁵² Ultimately, the traffic homicide report attributes fault to Ms. Constant and Mr. Correa.⁵³

Medical Injuries

Mr. Correa suffered extensive injuries, including a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain.⁵⁴ During the claim bill hearing, Mr. Correa indicated that Medicare covered most of his medical expenses.⁵⁵ However, the claimant's attorney provided financial data and projected Mr. Correa's total past medical liens to be approximately \$339,416.⁵⁶

Current and Future Needs

Currently, Mr. Correa is living in an assisted living facility, but he would like to live on his own again.⁵⁷ During the claim bill hearing, Mr. Correa explained that his prosthetic does not fit him properly due to skin integrity issues.⁵⁸ However, he hopes to get those problems addressed and corrected.⁵⁹ The claimant's attorney provided a life care evaluation that estimates Mr. Correa's "present value of future loss" to be approximately \$4,051,261.⁶⁰ Additionally, Mr. Correa and his sister testified that the claimant's quality of life has dramatically decreased since the accident in December of 2021.⁶¹

LITIGATION HISTORY:

A lawsuit was filed in July of 2022, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, case no. 2022-013508-CA-01, styled *Jose Correa v. Miami-Dade County*. The complaint asserted vicarious liability negligence claims on behalf of Mr. Correa against Miami-

⁵² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁵³ *Id.*

⁵⁴ See Claimant's Summary of the Case; see also Special Master Claim Bill Hearing (Jan. 30, 2025).

⁵⁵ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 51:28.

⁵⁶ See *id.* at 55:00. In the Claim Bill Hearing the Claimant's attorney stated that Mr. Correa's Medicaid lien was approximately \$339,416, and all other past expenses have been satisfied. The "Claimant's Summary of the Case" indicates that Mr. Correa's past medical bills are approximately \$1,300,000.

⁵⁷ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 44:38-48:07.

⁵⁸ See *id.* at 38:40-42:00.

⁵⁹ *Id.*

⁶⁰ See Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023).

⁶¹ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025). Mr. Correa and his sister testified regarding the claimant's quality of life. Prior to the accident, Mr. Correa enjoyed being active and had an active lifestyle. Additionally, both the claimant and his sister testified that Mr. Correa has had a difficult time mentally and emotionally post-accident.

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Dade County. The complaint further alleged that Miami-Dade County's employee, Traci Constant, carelessly and negligently struck Mr. Correa while she was driving a Miami-Dade County passenger bus. As a result, the complaint provides that Mr. Correa suffered great bodily injury, pain, disability, disfigurement, mental anguish, and the loss of the capacity for the enjoyment of life.

Release of all Claims and Settlement Agreement

On March 25, 2024, Mr. Correa signed a "release" to release and discharge Miami-Dade County from liability related to the facts in Circuit Court Case 2022-013508-CA-01.⁶² Pursuant to that "release," the claimant received \$200,000 from Miami-Dade County, and the respondent agreed to support a claim bill in the amount of \$4,100,000.⁶³

Section 768.28 of the Florida Statutes limits the amount of damages that a claimant can collect from a local government as a result of its negligence or the negligence of its employees to \$200,000 for one individual, and \$300,000 for all claims or judgments arising out of the same incident. Funds in excess of this limit may only be paid upon approval of a claim bill by the Legislature.

On November 25, 2024, a "notice of voluntary dismissal with prejudice" was entered in Circuit Court Case 2022-013508-CA-01.

On March 13, 2025, the attorneys for both parties executed and signed a letter stating that everything enclosed in the March 25, 2024, "Release" is considered a settlement agreement between Miami-Dade County and Mr. Correa.

Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000.⁶⁴

CONCLUSIONS OF LAW:

The claim bill hearing held on January 30, 2025, was a de novo proceeding to determine whether Miami-Dade County is liable for negligence damages caused by its employee, Traci

⁶² Release of All Claims, Jose Correa v. Miami-Dade County, Case No. 22-013508-CA-01 (Mar. 25, 2024).

⁶³ *Id.*

⁶⁴ Miami-Dade County's Summary, Positions, and Insurance Statement, Senate Bill 6; see also Correa Special Master Claim Bill Hearing (Jan. 30, 2025).

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Constant acting within the scope of her employment, to the claimant, and, if so, whether the amount of the claim is reasonable. This report is based on evidence presented to the Special Master prior to, during, and after the hearing. The Legislature is not bound by settlements or jury verdicts when considering a claim bill, the passage of which is an act of legislative grace.

Under the legal doctrine of *respondeat superior*, Miami-Dade County is responsible for the wrongful acts of its employees when the acts are committed within the scope of their employment. Because Ms. Constant was operating a bus in the course and scope of her employment at the time of the accident and because the bus was owned by Miami-Dade County, the County is responsible for any wrongful acts, including negligence, committed by Ms. Constant.

Negligence

There are four elements to a negligence claim: (1) duty – where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach – which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation – where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages – actual harm.⁶⁵

The plaintiff bears the burden of proving, by the greater weight of the evidence, that the defendant's action was a breach of the duty that the defendant owed to the plaintiff. The "greater weight of the evidence" burden of proof "means the more persuasive and convincing force and effect of the entire evidence in the case."⁶⁶

In this case, Miami-Dade County's liability depends on whether Ms. Constant negligently operated the County's bus and whether that negligent operation caused Mr. Correa's resulting injuries.

Duty

⁶⁵ *Williams v. Davis*, 974 So.2d 1052, at 1056-1057 (Fla. 2007); see also Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

⁶⁶ Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

A legal duty may arise from statutes or regulations; common law interpretations of statutes or regulations; other common law precedent; and the general facts of the case.⁶⁷

In this case, Ms. Constant was responsible for the duty of reasonable care to others while driving her Miami-Dade County bus. In accordance with Miami-Dade County Personnel Rules, Ms. Constant had a reasonable duty to observe “safe driving practices,” including a duty against “making right or left turns on red traffic signals,” a duty to “use caution before entering intersections,” and a duty to give pedestrians the right-of-way. Additionally, in accordance with the Metrobus Operation Rules and Procedures Manual, Ms. Constant had a reasonable duty to not enter an intersection unless she knew the bus could get completely across if the signal changed to red, and a duty to never run a red or yellow light.

Section 316.075(1)(c), of the Florida Statutes, provides that:

[t]he driver of a vehicle facing a steady red signal shall stop before entering the crosswalk and remain stopped to allow a pedestrian, with a permitted signal, to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger...[u]nless otherwise directed by a pedestrian control signal..., pedestrians facing a steady red signal must not enter the roadway.

Section 316.075(1)(a), of the Florida Statutes, provides that:

[v]ehicular traffic facing a circular green signal may proceed cautiously straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

⁶⁷ *McClain v. Florida Power Corp.*, 593 So.2d 500, 503 n. 2 (Fla. 1992).

Section 316.075(1)(b), of the Florida Statutes, provides that “[v]ehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic must not enter the intersection.”

Breach

The undersigned finds that Ms. Constant breached the duty of care owed to Mr. Correa.

As stated above, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out into the intersection to wait for northbound traffic to clear; however, when she made the left turn, the traffic light was red. Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus. Then, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa's left leg until the bus came to a controlled stop.

Causation

Mr. Correa's injuries were the natural and direct consequence of Ms. Constant's breach of her duty. Ms. Constant was acting within the scope of her employment at the time of the accident. Miami-Dade County, as the employer, is liable for damages caused by its employee's negligent act.

Damages

A plaintiff's damages are computed by adding these elements together:

Economic Damages

- Past Medical Expenses
- Future Medical Expenses

Non-Economic Damages

- Past Pain and Suffering and Loss of Enjoyment of Life
- Future Pain and Suffering and Loss of Enjoyment of Life

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The claimant's attorney provided financial data and projected Mr. Correa's total past medical liens to be approximately \$339,416, and projected his total future medical expenses to be approximately \$4,051,261.⁶⁸

No evidence was presented or available indicating the damages authorized by the settlement agreement are excessive or inappropriate.⁶⁹

Comparative Negligence

Comparative negligence is the legal theory that a defendant may diminish his or her responsibility to an injured plaintiff by demonstrating that another person, sometimes the plaintiff and sometimes another defendant or even an unnamed party, was also negligent and that negligence contributed to the plaintiff's injuries. The goal of proving a successful comparative negligence defense is to hold other people responsible for the injuries they cause to a plaintiff. By apportioning damages among all who are at fault, it will ultimately reduce the amount of damages owed by a defendant.⁷⁰

If this case had proceeded to trial, it would likely have been disputed that Ms. Constant was solely at fault in the collision or solely responsible for Mr. Correa's injuries and damages.⁷¹ Miami-Dade County raised the affirmative defense of comparative negligence in its Answer to the Plaintiffs' Complaint to reduce the County's liability in causing the accident and its responsibility for Mr. Correa's damages.

⁶⁸ In the Claim Bill Hearing the Claimant's attorney stated that Mr. Correa's Medicaid lien was approximately \$339,416. The "Claimant's Summary of the Case" indicates that Mr. Correa's past medical bills are approximately \$1,300,000. See also Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). The "Summary of the Past and Present Value of Future Economic Loss to Jose Correa" states that the estimated total of future loss is \$4,051,261, however, this is the amount Mr. Correa is expected to be billed but does not factor in any potential outside assistance (i.e. Medicare). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023). See also s. 409.910(11)(f), F.S., which provides for recovery in a tort action when Medicaid has provided medical goods and services to a plaintiff who is a Medicaid recipient.

⁶⁹ See *Estate of Dougherty v. WCA of Florida, LLC*. (Fla. Cir. Ct. 2018). See also *Fernandez v. BFI Waste Systems of North America, Inc.* (Fla. Cir. Ct. 2000). See also *Gold v. Duncan; Sara Lee; Bryan Foods, Inc.* (Fla. Cir. Ct. 1991),

⁷⁰ Section 768.81, of the Florida Statutes, is the comparative fault statute. The apportionment of damages is established in section 768.81(3), of the Florida Statutes.

⁷¹ See Miami-Dade County's Summary, Positions, and Insurance Statement.

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Section 768.36(2), of the Florida Statutes, provides that:

“[i]n any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

- (a) The plaintiff was under the influence of any alcoholic beverage...to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and
- (b) As a result of the influence of such alcoholic beverage the plaintiff was more than 50 percent at fault for his or her own harm.⁷²

Section 316.130(1), of the Florida Statutes., provides that a pedestrian must “obey the instructions of any official traffic control device specifically applicable to the pedestrian unless otherwise directed by a police officer.” Additionally, section 316.075(1)(c), of the Florida Statutes, states that a pedestrian facing a steady red signal may not enter the roadway.

Mr. Correa violated s. 316.130(1), F.S., by entering the roadway with a steady red signal, and is no more than 50 percent at fault for his injuries. However, Ms. Constant had a heightened duty to adhere to the requirements of the Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way, and as stated above, Ms. Constant breached that duty.

Ultimately, the following was established by the greater weight of the evidence; Mr. Correa was negligent when he entered the crosswalk with a steady red signal; and Ms. Constant was negligent when she pulled into the intersection and turned left when the traffic light was red.⁷³ The parties entered into a signed settlement agreement, and Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the

⁷² See s. 768.36(2), F.S. It is unclear whether Mr. Correa had been drinking prior to the accident and on the day of the accident. The recorded statement by Officer Smith indicated that Mr. Correa was “swaying” and was potentially intoxicated, however, evidence of an alcohol toxicology was not entered into the record. Additionally, at the claim bill hearing, Mr. Correa testified that he did not have any alcohol on the day of the accident.

⁷³ As stated above, Ms. Constant owed Mr. Correa a heightened duty of care as established by Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way.

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claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000. Thus, the settled claim amount of \$4,100,000 to be paid by Miami-Dade County seems reasonable based on the evidence presented, including any comparative negligence, and in taking into consideration the unpredictable nature of juries.⁷⁴

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded. The claimant's attorney has agreed to limit fees to 25 percent of any amount awarded by the Legislature. Additionally, lobbying fees will be limited to 7 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

Based on the foregoing, the undersigned recommends that Senate Bill 6 be reported FAVORABLY.

Respectfully submitted,

/s/ Carter McMillan
Senate Special Master

cc: Secretary of the Senate

⁷⁴ See *Estate of Dougherty v. WCA of Florida, LLC.*, 2018 WL 6925662 (Fla. Cir. Ct.), where a bicyclist was struck and killed by a truck as she was trying to get from the bike lane to the crosswalk and the truck driver failed to yield, failed to check his mirrors, failed to use his turn signal, and failed to slow down as he executed his turn. The Defense claimed that Dougherty made a sudden turn that put her bicycle in the path of the truck and that tests showed that Dougherty had both alcohol and cocaine in her system at the time of the crash. The jury found the plaintiff was "not under the influence of cocaine and/or alcohol to the extent that her normal faculties were impaired or that she had a blood alcohol level of 0.08 or higher" and was 20 percent negligent and the defendant was found to be 80 percent negligent, and awarded \$25,000,000 to the plaintiffs for the wrongful death of their daughter. See also *Fernandez v. BFI Waste Systems of North America, Inc.*, 2000 WL 33268233 (Fla. Cir. Ct.), where a 70 year old retired woman suffered injuries after she was struck while crossing a roadway outside of the crosswalk by the defendant recycling truck. In *Fernandez*, the jury found the plaintiff to be 50 percent negligent and the jury awarded \$1,487,000 to the plaintiff. The case was settled after trial for \$725,000. See also *Gold v. Duncan, Sara Lee, and Bryan Foods, Inc.*, 1992 WL 737190 (Fla. Cir. Ct.), where an 88 year old woman suffered an amputated right arm and her left arm was rendered useless as a result of being struck by a tractor-trailer driven by the defendant and owned by the co-defendants. The defendant had been stopped at a traffic light waiting to turn, and the plaintiff was waiting to cross the roadway. When the light turned green, the defendant started to execute a wide turn. When the plaintiff started to walk forward, she was struck, and the rear wheels of the trailer ran over her arms. The plaintiff contended that she did not think the truck was turning. The defendant alleged that the plaintiff walked into the truck, and two eyewitnesses stated that the plaintiff began walking after the truck was blocking the crosswalk. The plaintiff was found 50 percent negligent, and the award was reduced to \$2,000,000.

By Senator Rodriguez

40-00048-26

202614__

1 A bill to be entitled
 2 An act for the relief of Jose Correa by Miami-Dade
 3 County; providing an appropriation to compensate Mr.
 4 Correa for injuries sustained as a result of the
 5 negligence of an employee of Miami-Dade County;
 6 providing a limitation on the payment of compensation
 7 and certain fees; providing an effective date.
 8

9 WHEREAS, on December 16, 2021, Jose Correa was lawfully
 10 walking across Bird Road, SW 40th Street, within the marked
 11 crosswalk at the intersection of Bird Road and Le Jeune Road, SW
 12 42nd Avenue, in Miami-Dade County, and

13 WHEREAS, a Miami-Dade County bus driver failed to observe
 14 Mr. Correa and made a left-hand turn at the intersection,
 15 causing a collision between the bus and Mr. Correa, and

16 WHEREAS, Mr. Correa has alleged, through a lawsuit filed on
 17 July 21, 2022, in the Circuit Court of the Eleventh Judicial
 18 Circuit, that the negligence of Miami-Dade County, through its
 19 bus driver, was the proximate cause of Mr. Correa's injuries,
 20 and

21 WHEREAS, Mr. Correa suffered personal injuries resulting in
 22 significant pain and anguish, including a below-knee amputation,
 23 and will continue to suffer pain and anguish for the remainder
 24 of his life, and

25 WHEREAS, since the incident, Mr. Correa has incurred
 26 considerable medical care and treatment costs related to his
 27 injuries, and he will require such care and treatment for the
 28 remainder of his life, and

29 WHEREAS, following the filing of the lawsuit, Mr. Correa

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40-00048-26 202614__

30 and Miami-Dade County reached a settlement agreement in the
 31 amount of \$4.3 million, and
 32 WHEREAS, pursuant to that settlement agreement and the
 33 limits of liability set forth in s. 768.28, Florida Statutes,
 34 the settlement agreement has been partially satisfied by Miami-
 35 Dade County in the amount of \$200,000, and the satisfaction of
 36 the remainder is contingent upon the passage of a claim bill in
 37 the amount of \$4.1 million, NOW, THEREFORE,

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

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

42 Section 2. Miami-Dade County is authorized and directed to
 43 appropriate from funds not otherwise encumbered and to draw a
 44 warrant in the sum of \$4.1 million payable to Jose Correa as
 45 compensation for injuries and damages sustained.

46 Section 3. The amount paid by Miami-Dade County pursuant to
 47 s. 768.28, Florida Statutes, and the amount awarded under this
 48 act are intended to provide the sole compensation for all
 49 present and future claims arising out of the factual situation
 50 described in this act which resulted in injuries and damages to
 51 Jose Correa. The total amount paid for attorney fees and
 52 lobbying fees relating to this claim may not exceed 25 percent
 53 of the total amount awarded under this act.

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

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1-12-26

The Florida Senate

APPEARANCE RECORD

14

Meeting Date

Judiciary

Committee

Name

Albert Balich

Address

215 S Monroe St

Street

Tall

FL

32301

City

State

Zip

Phone

8502813440

Email

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Mr. Jose Correa

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://flsenate.gov/2020-2022JointRules.pdf) (flsenate.gov)

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

S-001 (08/10/2021)



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

409 The Capitol

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
1/5/26	SM	Favorable
1/12/26	JU	Favorable

January 5, 2026

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 16** – Senator Darryl Rouson
HB 6517 – Representative Berfield
Relief of Heriberto A. Sanchez-Mayen by the City of St. Petersburg

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$2,300,000 FROM THE GENERAL REVENUE OF THE CITY OF ST. PETERSBURG. THIS AMOUNT IS THE UNPAID SETTLEMENT AGREEMENT BETWEEN HERIBERTO SANCHEZ-MAYEN, THE CITY OF ST. PETERSBURG, AND ST. PETERSBURG POLICE OFFICERS MICHAEL THACKER AND SARAH GADDIS, IN THEIR INDIVIDUAL CAPACITIES. THE SETTLEMENT RESOLVED A FEDERAL CIVIL ACTION ARISING FROM ALLEGED INJURIES RECEIVED BY HERIBERTO SANCHEZ-MAYEN WHILE IN POLICE CUSTODY, RESULTING IN THE AMPUTATION OF HIS LEGS.

FINDINGS OF FACT:

As noted by the U.S. District Court of the Middle District of Florida-Tampa Division, in an order granting, in part, a Motion to Dismiss in this matter, this case is unique in that “the entirety of the officers’ relevant conduct...is captured on three videotapes,” and “these three tapes are almost the entire case...both parties argued from the tapes without objection.” The authenticity of these videos was not challenged by either party.¹

¹ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025), at 1-2.

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On the morning of June 8, 2023, Officer Sarah Gaddis (Gaddis) of the St. Petersburg Police Department, at approximately 10:25 a.m., responded to a call for service “regarding transients loitering in vacant lot just south of...251 15th Street North. The caller advised there were three subjects; a white male, a white female, and a Hispanic male.”²

The property in question is a long, narrow, vacant lot owned by the City of St. Petersburg. The lot is bounded by fencing on its long sides and can be ingressed and egressed from the narrower sides. These two narrower sides were marked with metal signs on wooden posts. From Officer Gaddis’ bodycam video of the incident in question, at least one sign, clearly visible from the street, stated “No Trespassing” and cited to St. Petersburg City Code 21-40. The wording of the other sign is not clear from the video; however, it is reasonable to assume it contained similar verbiage.³ Gaddis walked further into the lot, where she found Heriberto Sanchez-Mayen (Sanchez-Mayen) asleep on his back, barefoot, and lying on a piece of cardboard with a backpack near his arm. Nearby Sanchez-Mayen is a tarp tied up amongst a bamboo clump so as to make a makeshift shelter, as are several items of clothing, a pack of cigarettes, and a beer can.⁴ Various pieces of other rubbish can also be found around the lot. Gaddis arouses Sanchez-Mayen from his sleep by calling out his first name, which she clearly knows.⁵

After arousing Sanchez-Mayen, Gaddis informed him that he was trespassing and asks Sanchez-Mayen if he knew this (Sanchez-Mayen later denied seeing the no trespassing sign) and if the beer can nearby was his (which he also denied—Gaddis however, does not appear to believe this, as she states that the beer is a brand Sanchez-Mayen always drinks).⁶ She instructs Sanchez-Mayen to put on his shoes, gather his belongings, and accompany her to her police cruiser nearby to be issued “a ticket.”⁷ However, Gaddis

² Deposition of Officer Sarah Gaddis, Jan. 30, 2025, at 71, unmarked Claimant’s Exhibit.

³ Gaddis also states that both signs say, “no trespassing.” Bodycam video of Officer Sarah Gaddis, Jun. 8, 2023, at 0:30-32.

⁴ *Id.* at 1:25-2:01.

⁵ *Id.* at 0:49-52. In her deposition, Gaddis stated that “I was able to easily identify the Hispanic male as Heriberto Sanchez-Mayen, as we have had numerous previous interactions with him. He is a chronic offender of ordinances and violations downtown.” Deposition of Officer Sarah Gaddis, *supra* note 2 at 74.

⁶ Bodycam video of Officer Sarah Gaddis, *supra* note 3 at 0:50-2:36, unmarked Claimant’s Exhibit.

⁷ *Id.* at 0:50-1:06.

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appears to immediately reconsider this, and asks into her radio whether the police transport van is nearby and then asks for the van to come to the lot for a trespass.⁸

Sanchez-Mayen, though seemingly groggy and potentially intoxicated, fully complies with Gaddis' instructions and is at no time combative or otherwise uncooperative.⁹ Gaddis also treated Sanchez-Mayen in a professional manner and was neither abusive nor physically threatening. Gaddis proceeded to conduct a search of Sanchez-Mayen's backpack and pats him down. Sanchez-Mayen continues to be cooperative, and Gaddis continues to be professional.¹⁰ Gaddis then informs Sanchez-Mayen that he will not be getting a ticket and will, instead, be arrested, stating that they are getting "all kinds of complaints," Sanchez-Mayen gets tickets "all the time," but does not care and continues to "not change his ways."¹¹

Shortly thereafter, Officer Michael Thacker (Thacker) arrives, who is the driver of the police transport van and responsible for transporting detainees to the police station "sally port." Gaddis informs Thacker of Sanchez-Mayen's name and that the charge against him is trespass. Two other unidentified officers are nearby; however, they are not substantially involved in the arrest other than to walk with Sanchez-Mayen to the van.¹² Thacker then says to Gaddis "I think after a certain many of these, it should be a felony." Gaddis indicates her agreement with this statement.¹³ Thacker then places Sanchez-Mayen in handcuffs and places a belly chain around Sanchez-Mayen's waist to which he attaches the handcuffs.¹⁴ Gaddis again re-iterates that Sanchez-Mayen will not "change his ways," to which Thacker says, "A year in jail would probably settle it."¹⁵ Gaddis then states, "Yeah...maybe...it's debatable."¹⁶ The officers search Sanchez-Mayen's backpack and load his property into a bag for Thacker to take with him for transporting Sanchez-Mayen.¹⁷

⁸ *Id.* at 1:07-1:27.

⁹ Officer Gaddis, in her deposition, stated that, from her recollection of that morning, Sanchez-Mayen did not appear intoxicated. Deposition of Officer Sarah Gaddis, *supra* note 2 at 86.

¹⁰ Bodycam video of Officer Sarah Gaddis, *supra* note 3 at 2:42-4:12.

¹¹ *Id.* at 4:50-55 and 6:15-20.

¹² *Id.* at 5:01-6:02.

¹³ *Id.* at 6:02-6:10.

¹⁴ *Id.* at 5:55-6:28.

¹⁵ *Id.* at 6:15-6:29.

¹⁶ *Id.* at 6:30-6:34.

¹⁷ *Id.* at 6:50-8:08.

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Sanchez-Mayen is loaded into the police van, and he continues to be completely cooperative with no physical resistance whatsoever—although he does continue to appear to be groggy and potentially intoxicated.¹⁸ The van is a Ford Police Transport Van, with two compartments. Both compartments are metal, do not appear to have any padding of any sort, and are fitted with a metal, built-in bench structure that appears to have some sort of black anti-skid tape on the seat.¹⁹ The smaller side compartment has a single bench running the length of the compartment. This smaller compartment appears to have room for approximately one person.²⁰ The larger rear compartment is bifurcated with a metal partition running through the middle. The right side has a bench that runs the length of the compartment and terminates on the wall abutting the side compartment. It appears to potentially fit several transportees. The left side (where Sanchez-Mayen was loaded by Thacker) also has a bench that runs the length of the compartment; however, this bench also wraps around the bulkhead of the vehicle to create an L-shaped configuration. It also appears to potentially fit several transportees. The compartments do not have seatbelts or any other similar type of restraints.²¹

It was the policy of the City of St. Petersburg, at least at the time of the incident, that detainees would be handcuffed²² but were not required to be seat-belted or similarly restrained in police vans²³—a policy which counsel for the Claimant, at hearing, stated they “had no problem with.” However, Claimant does point out that it was safer, in the larger compartment, to have the transportee sit on the floor with their back against the bulkhead if possible, instead of on the bench. Thacker acknowledged this in his deposition and that he failed

¹⁸ *Id.* at 7:00-7:10.

¹⁹ Van Photo 45530-23-021625-A_11 through 17, unmarked Claimant's Exhibit.

²⁰ Detainee Kicking video, Jun. 8, 2023, Claimant's Exhibit 11.

²¹ *Id.*

²² St. Petersburg Police Department General Order: Transporting and Booking Prisoners, § III-10 (2016), unmarked Claimant's Exhibit, states that detainees placed in the prisoner transport van (PTV) must be handcuffed. Whether to do so in front or in back is at the discretion of the officer; however, if the prisoner is handcuffed in front, the handcuffs must be attached to a waist (i.e. belly) chain.

²³ Deposition of Officer Michael Thacker, Jan. 30, 2025, at 78-79, unmarked Claimant's Exhibit.

to ask Sanchez-Mayen to do so, despite nothing preventing him from doing this.²⁴

Sanchez-Mayen was loaded into the left-side portion of the rear compartment as the side compartment was already occupied by another detainee.²⁵ This detainee seemed to be less cooperative, exceedingly intoxicated, and kicking at the walls of the van and yelling.²⁶ The ride to the sally port is lengthy, however there is not a video of Sanchez-Mayen for most of this ride as Thacker admitted that he forgot to initialize the camera in the left-side of the larger compartment.²⁷ The failure to activate this camera was a violation of St. Petersburg Police Department protocol. According to Thacker, he heard a bump against the bulkhead of the compartment and at that point realized his error and activated the internal camera for the larger compartment.²⁸ This camera had a technology that, when turned on, would record the previous 30-35 seconds.

As the camera activates, the video shows Sanchez-Mayen quietly sitting upright on the metal bench. Moments later, the van appears to come to an abrupt halt.²⁹ Sanchez-Mayen, generally unable to brace himself due to the handcuffs and belly chain, falls, striking his head on the side of the van and then the metal bench. The fall appears to be with some force as Sanchez-Mayen's restraints made it difficult to break his fall in any meaningful way.³⁰

Immediately thereafter, Sanchez-Mayen can be seen lying generally motionless on the floor of the van (there may have been some minor movement, though it is unclear if this was independent movement on Sanchez-Mayen's part or was simply the movement of the van itself). This lasts for approximately five minutes. The van then appears to park,

²⁴ Deposition of Officer Michael Thacker, *supra* note 23 at 34-38, unmarked Claimant's Exhibit. In the deposition, Thacker stated that placing a detainee in this position is not always possible, some detainees are too large to fit and others are simply uncooperative and thus would not listen.

²⁵ *Id.* at 32-34.

²⁶ Detainee Kicking video, *supra* note 20.

²⁷ Deposition of Officer Michael Thacker, *supra* note 23 at 83.

²⁸ *Id.* at 83-86.

²⁹ The District court found that "Thacker stopped the van fairly suddenly...it was not a lurching, 'slam on the brakes' stop, but it was a fairly sudden, definitely firm stop." *Sanchez-Mayen v. City of St. Petersburg, et al.* No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025), at 10.

³⁰ Inside van video, Jun. 8, 2023, at 0:40-48.

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and lights come on in the compartment, as the van arrives at the station.³¹

Thacker then opens the back door of the van to find Sanchez-Mayen lying face-down on the floor of the compartment, unresponsive. Thacker makes several attempts to arouse Sanchez-Mayen by loudly saying his name and strongly shaking at Sanchez-Mayen's leg and lower back. Thacker then firmly pulls up on one of Sanchez-Mayen's shoulders and again, repeatedly shouts Sanchez-Mayen's name and tells him to wake up. Thacker does not appear to check Sanchez-Mayen for any injuries that may have caused his unresponsiveness.³²

Finding Sanchez-Mayen still unresponsive, Thacker then begins to pull Sanchez-Mayen out of the van by forcefully pulling on his ankles—dragging Sanchez-Mayen face-first across the floor of the van.³³ Thacker then appears to ask for help from another officer to fully remove Sanchez-Mayen from the van.³⁴

Thacker then proceeds, with the assistance of another officer, to roughly pull the unconscious Sanchez-Mayen completely from the van and flip him over.³⁵ Sanchez-Mayen's head slunk back onto the van floor as Thacker continues to call out and shake Sanchez-Mayen to "wake up."³⁶ Sanchez-Mayen head then slips further and strikes the side of the van door where he momentarily ends up in a sitting position with his head wedged between the van door and fender.³⁷ Thacker then directs the other officer to "go get the nurse" and keeps attempting to shake and rouse Sanchez-Mayen, eventually allowing him to further fall and strike the station floor.³⁸ Thacker then proceeds to pull Sanchez-Mayen by his feet again, dragging him across the station floor.³⁹ Shortly thereafter, multiple responders arrive and begin treatment asking Thacker if Sanchez-Mayen was breathing—to which

³¹ *Id.* at 5:40-50.

³² *Id.* at 5:44-6:05.

³³ *Id.* at 6:06-6:30.

³⁴ *Id.* at 6:30-6:32.

³⁵ Inside van video, Jun. 8, 2023, at 1:46-2:00.

³⁶ *Id.* at 2:01-2:09.

³⁷ *Id.* at 2:09-2:15.

³⁸ *Id.* at 2:15-2:20.

³⁹ *Id.* at 2:20-2:25.

Thacker said he “gasped a couple of times.”⁴⁰ Thacker gives Sanchez-Mayen a “sternum rub” and the respondents then begin to give full first aid to Sanchez-Mayen, including CPR and application of Narcan—presumably due to Thacker or the responders believing that Sanchez-Mayen may have had a drug overdose.⁴¹ Eventually, additional responders arrive and, after about 13 minutes of treatment, Sanchez-Mayen is loaded onto a gurney and wheeled away.⁴² It appears that the responders did not suspect at any time that Sanchez-Mayen had a head or spinal injury.

Thacker, from the time he found the unconscious Sanchez-Mayen until the time he removed him from his van, appeared to give no effort in assessing Sanchez-Mayen for an apparent injury, protecting Sanchez-Mayen from any injury, or protecting against aggravating any injury Sanchez-Mayen may have had. The District Court characterized Thacker’s treatment of Sanchez-Mayen after finding him unconscious as “giving no apparent effort whatsoever to considering bodily injury or protecting against aggravating one, other than noting ‘he is unconscious,’ and that Thacker’s handling of Sanchez-Mayen “was very rough, indeed sloppy or cavalier handling of a potentially injured person.”⁴³ Further, the court stated that the extraction of Sanchez-Mayen was “reckless, callous, and something every Boy Scout with a First Aid merit badge would know is entirely improper.”⁴⁴ These characterizations are quite accurate.

On his way to the hospital, Sanchez-Mayen was given a notice to appear on the charge of “trespass on property other than a structure or conveyance.”⁴⁵ This charge was subsequently dismissed by the Pinellas County Court on February 22, 2024, on the grounds that the lot in question was not appropriately posted or marked as required under the applicable trespass statute: section 810.09, of the Florida Statutes.⁴⁶

⁴⁰ *Id.* at 2:28-3:12.

⁴¹ *Id.* at 3:12-16:10.

⁴² *Id.* at 4:40-2:15

⁴³ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, (M.D.Fla Mar. 10, 2025), at 11-13.

⁴⁴ *Id.* at 24.

⁴⁵ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, (M.D.Fla Mar. 10, 2025), at 13.

⁴⁶ *State of Florida v. Heriberto Sanchez-Mayen*, No 23-09240-MM-G, (Pinellas Cty. Ct., Feb. 22, 2024). “Trespass on property other than structure or conveyance,” requires such property to be posted pursuant to s. 810.11(5)(a), F.S., which requires, in part, “no trespassing” signs be posted at not more than 500 feet apart along and at each corner of the boundaries of the land. The property in question here only had one (possibly two) such signs.

Sanchez-Mayen was initially taken to HCA Largo Hospital, where he was eventually, after a CT scan, diagnosed with a C3 (a thin vertebra in the neck) anterior inferior corner fracture and a perivertebral edema/hematoma from an odontoid⁴⁷ fracture. A CT angiogram also revealed a Type B aortic dissection. It was also noted that Sanchez-Mayen was able to slightly shrug his shoulders, had minimal movement in his right foot, decreased sensation to all four extremities, and was unable to move his arms—he was diagnosed with a significant spinal cord injury. In addition, Sanchez-Mayen's feet were cool and mottled. Physicians also determined that there was a low likelihood that Sanchez-Mayen would regain function of his legs. After determining that HCA Largo Hospital was unable to meet Sanchez-Mayen's needs, he was transferred to Tampa General Hospital later that same day.⁴⁸

On August 12, owing to his traumatic injuries, Sanchez-Mayen underwent above-the-knee amputation of both of his legs. He also suffered from acute respiratory failure later that month during his stay—necessitating a tracheostomy.⁴⁹ On August 22, 2023, Sanchez-Mayen was discharged from Tampa General and moved to a skilled nursing facility.⁵⁰ Sanchez-Mayen eventually moved into his sister's residence, where he continues to receive full-time care from his sister and other health professionals.

It was clear from his appearance at the hearing, which was by Web-X due to his condition and mobility issues, that Sanchez-Mayen still has extremely limited ability to use his hands and has difficulty raising his arms. A life care plan submitted by the Claimant found that Sanchez-Mayen will likely need ongoing medical care and support care throughout the remainder of his life expectancy.⁵¹ The life care plan noted the following support needed for Sanchez-Mayen:

- Spinal injury: He cannot raise his arms above his head and lacks the ability to grasp with his hands. In addition, he has altered sensation in his lower back, down his

⁴⁷ The odontoid is a tooth-like projection from the second cervical vertebra (C2) at the top of the neck.

⁴⁸ *Life Care Plan for Heriberto Sanchez Mayen* (Robert P. Tremp Jr., Client M.D. Life Care Plans, May 16, 2025), unmarked Claimant's Exhibit, and *Discharge Summary* (Catherine Deluna, Tampa General Hospital, Jun. 8, 2023), unmarked Claimant's Exhibit.

⁴⁹ *Life Care Plan for Heriberto Sanchez Mayen*, *supra* note 48.

⁵⁰ *Discharge Summary*, *supra* note 48.

⁵¹ *Life Care Plan for Heriberto Sanchez Mayen*, *supra* note 48.

legs, shoulder and muscle pain in his arms, and phantom pain in his limbs.

- Bowel/bladder: He is unable to move his bowel without digital stimulation and is incontinent. He must wear diapers which need to be changed by caregivers. Sanchez-Mayen also suffers from frequent urinary tract infections.
- Turning/transfers/attendant needs: He requires assistance to turn in bed and needs the assistance of two to transfer from bed, though he can maintain a sitting position—with his head up—once helped to this position. In addition, he is dependent on caregivers for his feeding, personal hygiene, and oral care, and essentially all daily needs.
- Complications: He reports frequent, painful, and violent spasms.⁵²

The life care plan report notes three potential options, and estimated costs, for Sanchez-Mayen's continuing care:

- Option 1: Privately hired caregivers in his home at a cost of \$7,088,677.
- Option 2: Hiring a team of caregivers through a home health agency at a cost of \$10,105,567.
- Option 3: Full-time placement in a skilled nursing facility at a cost of \$4,895,793.⁵³

LITIGATION HISTORY:

On March 18, 2024, Claimant filed a complaint (in Federal Court) against the City of St. Petersburg, Thacker, and Gaddis.⁵⁴ Claimant filed an amended complaint on June 11, 2024, alleging the following against the City of St. Petersburg, Thacker (in his individual capacity), and Gaddis (in her individual capacity):

Count 1 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—deliberate indifference toward an excessive risk to health and safety.

Count 2 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—deliberate indifference to serious medical need.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 18, 2024).

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Count 3 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—excessive force.

Count 4 (Federal Claim): 42 U.S.C. § 1983 Claim against Gaddis—false arrest.

Count 5 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—failure to intervene as to Gaddis' false arrest.

Count 6 (Federal Claim): 42 U.S.C. § 1983 Claim against Gaddis—failure to intervene as to Thacker's deliberate indifference toward excessive risk to health and safety.

Count 7 (Federal Claim): 42 U.S.C. § 1983 Claim against Gaddis—malicious prosecution.

Count 8 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—failure to intervene in malicious prosecution by Gaddis.

Count 9 (Federal Claim): *Monell* claim against the City of St. Petersburg for promulgation and adherence to policies in violation of Mayen's constitutional rights.

Count 10 (State Claim): Claim against Gaddis for false imprisonment.

Count 11 (State Claim): Claim against Thacker for false imprisonment.

Count 12 (State Claim): Claim against Gaddis for malicious prosecution.

Count 13 (State Claim): Claim against Thacker for malicious prosecution.

Count 14 (State Claim): Claim against Thacker for battery.

On March 10, 2025, the District Court granted, in part, a motion to dismiss claims against the City, Thacker, and Gaddis. The order dismissed with prejudice counts 4, 6, and 7 against Gaddis. The dismissal of these claims extinguished all Federal claims against Gaddis, and, therefore, the court dismissed the state court claims against Gaddis, without

prejudice, due to lack of independent subject matter jurisdiction.⁵⁵

Regarding Thacker, the District Court dismissed, with prejudice, counts 5 and 8 against him. The court also dismissed, without prejudice, claims 1 and 2 against Thacker, stating that he “is not, at this time, entitled to a dismissal of a ‘deliberate indifference’ claim under qualified immunity. But, the two counts are multiplicitous and contain some assertions that are not actionable.” The court directed the claimant to combine and restate the claim in any second amended complaint. However, the court did state that the allegations in the amended complaint “if true, deprive Officer Thacker of qualified immunity on this claim, at this stage.”⁵⁶

The court also dismissed, without prejudice, counts 11 and 13 against Thacker. The court dismissed these counts because it found that Gaddis had probable cause for arrest. The court doubted the claims could be reasserted successfully; however, the court allowed the Claimant to do so if they so chose.

The court did not dismiss count 3 against Thacker. Though it found the claim “to be unusual for an excessive force case” and it was unlikely that Thacker drove the van to deliberately injure or intimidate Sanchez-Mayen, “the accusation suffices at this stage” to avoid dismissal. In addition, the court cites to the potential “battery” of Sanchez-Mayen in his removal from the van as a reason not to dismiss the claim.

The court also did not dismiss count 14 against Thacker, noting that a battery, as alleged, “would not be subject to the immunity provided by s. 768.28(9)(a) because an intentional battery would establish malice.”⁵⁷

The court also dismissed, without prejudice, count 9 for failure to state a proper cause of action.⁵⁸

On March 14, 2025, the parties, after mediation, reached settlement on all matters in the case. That same day, the District Court acknowledged that settlement had been

⁵⁵ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025).

⁵⁶ *Id.*

⁵⁷ Citing to *Holland v. Glass*, 213 So.2d 320, 321 (Fla. 4th DCA 1968).

⁵⁸ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025).

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reached in the case and dismissed it without prejudice for 60 days—after 60 days, that dismissal became with prejudice and, therefore, final.⁵⁹

None of the pled counts in this matter at the district court were for negligence per se. All were for either deliberate indifference (a higher standard of proof than simple negligence) or intentional torts. However, the notarized settlement in this case states that it “settles the negligence claims against the City. Sanchez-Mayen withdraws the individual claims against the officers.” This settlement was executed by the parties and approved by the District court in dismissing the case due to settlement.

As confirmed with counsel for the Claimant at the Special Master hearing conducted regarding this matter, the claims settled by the parties—and under consideration in the matter at hand—are the negligence claims against officers (particularly Thacker) and the vicarious liability, under the theory of respondeat superior, for the City of St. Petersburg regarding the officer’s actions. Counsel for the City of St. Petersburg did not object to this characterization at the Special Master hearing, despite given a chance to do so.

Since the District court dismissed Gaddis from the matter, and the Claimant stated at the Special Master hearing that their claim of negligence was particularly regarding Thacker’s conduct, any tort liability regarding Gaddis’ conduct (which, consequently, did not show negligence on her part) will not be further considered here.

CONCLUSIONS OF LAW:

Section 768.28, of the Florida Statutes, waives sovereign immunity for tort liability up to \$200,000 per person and \$300,000 for all claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

Negligence, Generally

Negligence is the failure to take care to do what a reasonable and prudent person would ordinarily do under the

⁵⁹ *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 14, 2025).

circumstances.⁶⁰ Negligence is inherently relative—“its existence must depend in each case upon the particular circumstances which surrounded the parties at the time and place of the events upon which the controversy is based.”⁶¹

Negligence comprises four necessary elements: (1) *duty*—where the defendant has a legal obligation to protect others against unreasonable risks; (2) *breach*—which occurs when the defendant has failed to conform to the required standard of conduct; (3) *causation*—where the defendant’s conduct is foreseeably and substantially the cause of the resulting damages; and (4) *damages*—actual harm.⁶²

Vicarious Liability

Section 768.28(9)(a), of the Florida Statutes, provides, in part, that the exclusive remedy in a tort action for an injury caused by an officer, employee, or agent of the state or of any of its subdivisions—acting within the course and scope of their employment—is an action against the government entity (not the individual employee). Thus, such government entity is vicariously liable for such person’s actions under the doctrine of *respondeat superior*.⁶³

However, if the act is outside of the officer, employee, or agent’s course and scope of employment—or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property—then the officer, employee, or agent may be personally liable (and the government entity would not be liable).⁶⁴

Duty

Duty Element with Government Entities

To have liability in tort for a government entity, there must exist an “underlying common law or statutory duty of care with respect to the alleged negligent conduct. For certain basic judgmental or discretionary governmental functions, there has

⁶⁰ *De Wald v. Quarnstrom*, 60 So.2d 919, 921 (Fla. 1952).

⁶¹ *Spivey v. Battaglia*, 258 So.2d 815, 817 (Fla. 1972).

⁶² *Williams v. Davis*, 974 So.2d 1052, 1056–1057 (Fla. 2007).

⁶³ *City of Boynton Beach v. Weiss*, 120 So. 3d 606, 611 (Fla. 4th DCA 2013).

⁶⁴ *Id.*

never been an applicable duty of care.”⁶⁵ Section 768.28, of the Florida Statutes, does not establish any new duty of care for governmental entities. The purpose of statute was to waive immunity that prevented recovery for breaches of existing common-law duties of care.⁶⁶

Duty of Care to Person in Custody

A common law duty of care is owed to a person that law enforcement has taken into custody.⁶⁷ Accordingly, Thacker had a legal obligation to act as a reasonably prudent person under similar circumstances. This is because an officer, when taking a person into custody, places that person in a foreseeable zone of risk by taking away that person’s normal opportunity for protection.⁶⁸ The Florida Supreme Court has recognized that when a person’s “conduct creates a foreseeable zone of risk, the law generally will recognize a duty placed upon defendant either to lessen the risk or see that sufficient precautions are taken to protect others from the harm that the risk poses.”⁶⁹ In addition, Florida, “recognizes that a legal duty will arise whenever a human endeavor creates a generalized and foreseeable risk of harming others,” and “as the risk grows greater, so does the duty, because the risk to be perceived defines the duty that must be undertaken.”⁷⁰ The City of St. Petersburg seems to recognize the inherent risk in transporting detainees as its general order regarding the transporting and booking of prisoners states that, “transporting prisoners is a potentially dangerous function...it is the policy of the St. Petersburg Police to take all necessary precautions, while transporting prisoners, to protect the lives and safety of Officers, the public, and the person(s) in custody.”⁷¹

Certainly, any reasonable person, and especially a trained police officer, would know of the significant dangers of a person not being seat-belted. Clearly, this risk grows if such person has been handcuffed to a belly-chain and

⁶⁵ *Trianon Park Condo. Ass'n, Inc. v. City of Hialeah*, 468 So. 2d 912, 917 (Fla. 1985).

⁶⁶ *Id.*

⁶⁷ *Kaiser v. Kolb*, 543 So. 2d 732 (Fla 1989).

⁶⁸ *Henderson v. Bowden*, 737 So. 2d 532, 536 (Fla. 1999).

⁶⁹ *Kaiser* at 735, and

⁷⁰ *McCain v. Florida Power Corp.*, 593 So. 2d 500, 503 (Fla. 1992).

⁷¹ St. Petersburg Police Department General Order: Transporting and Booking Prisoners, *supra* note 22.

could not attempt to brace themselves in any effective way. Here, Thacker knew, or should have known, the significant risk he places detainees in when he places them in the back of the police van. Transporting detainees in this situation creates a foreseeable zone of risk that said arrestee has a significantly increased chance of injury from a traffic accident or even a sudden braking incident. Thacker owed a duty to Sanchez-Mayen to account for this significant and foreseeable zone of risk.

Breach

Failure to Seatbelt or Otherwise Secure Sanchez-Mayen

As stated above, Claimant stated that they “had no problem with” the City of St. Petersburg’s policy of not seat-beling or similarly restraining detainees in its police vans. However, the Claimant does point out that it was safer, in the larger compartment, to have the detainee sit on the floor with their back against the bulkhead if possible, instead of on the bench. Thacker acknowledged this in his deposition and that he failed to ask Sanchez-Mayen to do so, despite nothing preventing him from doing this.

While it may be a matter of some conjecture whether the policy of the City of St. Petersburg not to use seatbelts or similar restraints in the back of its police vans is negligent in and of itself, the claims regarding the City’s overall policy are not at issue here. As affirmed by the Claimant, the negligence claim rests on the behavior of Thacker—not whether the City’s policies are reasonable or prudent themselves.

Instead, it was Thacker’s failure to direct Sanchez-Mayen to sit on the floor of the vehicle, against the bulkhead—despite no reason not to do so and knowing this was the safest position—that potentially breached his duty of care to Sanchez-Mayen.

In isolation, Thacker’s failure to advise Sanchez-Mayen to sit on the floor may not rise to the level of breaching his duty of care to Sanchez-Mayen. However, taken with the totality of the circumstances below, Thacker’s actions do breach his duty of care to Sanchez-Mayen and the failure

to direct or recommend to Sanchez-Mayen that he sit in a safer position is a contributing factor.

Removal of Sanchez-Mayen from Police Van

Even if Thacker believed Sanchez-Mayen had simply passed out from intoxication or a drug overdose, the careless and reckless manner in which he removed Sanchez-Mayen from the van presented an unacceptably high potential of serious injury. Something any reasonable person, especially a trained law enforcement officer, should have ascertained. In addition, that Sanchez-Mayen was completely unconscious and unresponsive should give any reasonable person, especially trained law enforcement personnel, wariness that Sanchez-Mayen may be experiencing some kind of neurological or spinal injury. Such a reasonable person would have taken reasonable precautions to protect his head, neck, and spine. Thacker, instead, did exactly the opposite—subjecting Sanchez-Mayen to additional and needless spinal and head trauma after Sanchez-Mayen likely had already suffered significant trauma from his initial fall. While it is difficult, if not impossible, to assess to what extent Sanchez-Mayen's injuries were from his initial fall or subsequent handling by Thacker, there is little doubt Thacker's actions exacerbated an already perilous situation.

Failure to Note Potential Neurological and Spinal Trauma

Thacker also breached his duty of care to Sanchez-Mayen by not activating his camera per department protocol, and, thus, did not see Sanchez-Mayen fall in the van (he only activated the camera presumably after hearing Sanchez-Mayen fall against the bulkhead). Had he seen Sanchez-Mayen fall, he may have conducted himself differently after seeing Sanchez-Mayen motionless on the floor. In addition, after seeing Sanchez-Mayen motionless on the floor of the van, Thacker did not reasonably assess whether Sanchez-Mayen may have been injured in a fall.

Given the foreseeable risk of injury of a potential fall in the van, Thacker should have at least been cognizant of a potential head or spinal injury and conducted himself accordingly. Further, his lack of care in assessing the

situation was a contributing factor to Sanchez-Mayen not receiving more prompt care for his spinal injuries. Had Thacker undertaken a better assessment of the situation, Sanchez-Mayen may have had an improved outcome or some of his injuries could have been better mediated by medical personnel.

Causation

Thacker's negligence was the cause of Sanchez-Mayen's injuries in three ways:

1. Thacker failed, without any reasonable cause, to instruct Sanchez-Mayen to sit at the bottom of the transport van, despite knowledge that this was the safest place in the larger compartment. While this element, taken in isolation, may not be the complete cause of Sanchez-Mayen's injuries, it was certainly a significant factor.
2. Thacker failed to be reasonably wary of a potential spinal or neurological injury after observing Sanchez-Mayen motionless and unresponsive. This was compounded by Thacker's failure to turn on his camera per department protocol.
3. Even without suspecting a spinal or neurological injury, Thacker's handling of a motionless and unresponsive Sanchez-Mayen was reckless and callous, and, even without an existing spinal or neurological injury to Sanchez-Mayen, could have done serious harm.

Thacker's actions during the time Sanchez-Mayen was in his custody, taken in totality, were the actual and proximate cause of Sanchez-Mayen's injuries.

Damages

Through the provision of records and evidence showing Sanchez-Mayen's injuries, the Claimant has established that the settlement of \$2,500,000 (of which \$200,000 has already been paid to Sanchez-Mayen by the City of St. Petersburg) was reasonable and should not be disturbed.

SPECIAL MASTER'S FINAL REPORT – SB 16

January 5, 2026

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The cost of Sanchez-Mayen's needed continuing care,⁷² as provided by the Claimant, demonstrates that the settled award is appropriate.

At the Special Master hearing, the Claimant provided that it was their intention that the potential proceeds of the claim bill, if approved, would be placed within a special needs trust to maintain some of Sanchez-Mayen's public benefits while also using the trust proceeds to pay for his other needs. Counsel for the Claimant also provided, in their statement of funds, that the funds would also be used to settle outstanding Medicare liens of \$96,792.72 and \$175,734.11 (along with an associated fine related to those liens of \$4,285.00) relating to Sanchez-Mayen's previously received care.

ATTORNEY FEES:

Section 768.28(8), of the Florida Statutes, states that no attorney may charge, demand, receive, or collect for services rendered, fees in excess of 25 percent of any judgment or settlement.

The Claimant's attorney has submitted an affidavit to limit attorney fees to 25 percent of the total amount awarded and has not sought any attorney fees for her lobbying effort on behalf of Sanchez-Mayen.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that SB 16 be reported FAVORABLY.

Respectfully submitted,

Kurt Schrader
Senate Special Master

cc: Secretary of the Senate

⁷² As mentioned above, the least expensive option provided in the life care plan for Sanchez-Mayen, was \$4,895,793.

By Senator Rouson

16-00065A-26

202616__

1 A bill to be entitled

2 An act for the relief of Heriberto A. Sanchez-Mayen by
 3 the City of St. Petersburg; providing for an
 4 appropriation to compensate Mr. Sanchez-Mayen for
 5 injuries sustained as a result of the negligence of
 6 the City of St. Petersburg; providing a limitation on
 7 compensation and the payment of attorney fees;
 8 providing an effective date.

9
 10 WHEREAS, on June 8, 2023, Heriberto A. Sanchez-Mayen, a
 11 resident of St. Petersburg, Florida, was found asleep on a piece
 12 of cardboard just after 10 a.m. in a daytime-only designated
 13 park by a St. Petersburg police officer, and

14 WHEREAS, although Mr. Sanchez-Mayen was lawfully present on
 15 the property at this time of day, a St. Petersburg police
 16 officer arrested him for trespassing and called the prisoner
 17 transport van, and

18 WHEREAS, the transport officer handcuffed Mr. Sanchez-Mayen
 19 and attached a metal belly chain, which restricted the use of
 20 his arms, and placed him unsecured, without a seatbelt or other
 21 stationary tethering, on a metal bench in the back of a metal
 22 transport van, and

23 WHEREAS, while en route to the Pinellas County Jail, the
 24 transport officer, who had not engaged the van's interior video
 25 camera showing Mr. Sanchez-Mayen, stopped short for a red light,
 26 causing Mr. Sanchez-Mayen, who had no ability to brace or
 27 protect himself because he was restrained, to be thrown head
 28 first from the back of the van into the bulkhead, where he laid
 29 motionless. This was ultimately captured on the van's interior

Page 1 of 3

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

16-00065A-26

202616__

30 video camera, and

31 WHEREAS, instead of immediately seeking medical treatment
 32 for Mr. Sanchez-Mayen, the transport officer continued to drive
 33 to the jail where, upon arrival, Mr. Sanchez-Mayen was still
 34 motionless and unresponsive on the metal floor of the van, and
 35 WHEREAS, the transport officer proceeded to remove Mr.
 36 Sanchez-Mayen's body from the van by dragging him by his feet,
 37 causing his head to strike the rear bumper, the rear door, and
 38 the cement floor, and

39 WHEREAS, Mr. Sanchez-Mayen was taken to a local hospital
 40 for approximately 12 hours before being transported to Tampa
 41 General Hospital, where doctors determined that Mr. Sanchez-
 42 Mayen had sustained catastrophic injuries, including a closed
 43 displaced fracture of the third cervical vertebra, a closed
 44 odontoid fracture, dissection of the descending thoracic aorta,
 45 and spinal cord compression, which ultimately led to amputation
 46 of both of his legs above the knees, rendering him an incomplete
 47 quadriplegic, and

48 WHEREAS, as a result of the injuries sustained during
 49 transport, Mr. Sanchez-Mayen requires supervised medical care,
 50 home health care, and other services and support for the rest of
 51 his life, and

52 WHEREAS, on March 18, 2024, Mr. Sanchez-Mayen brought suit
 53 against the City of St. Petersburg and two individual St.
 54 Petersburg police officers in the United States District Court
 55 for the Middle District of Florida, Tampa Division, under case
 56 number 8:24-CV-00690-WFJ-TGW, and

57 WHEREAS, on March 12, 2025, Mr. Sanchez-Mayen and the City
 58 of St. Petersburg entered into a settlement agreement for \$2.5

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

16-00065A-26

202616__

59 million, and

60 WHEREAS, in accordance with s. 768.28, Florida Statutes,
61 the City of St. Petersburg paid \$200,000 to the trust account of
62 Mr. Sanchez-Mayen's lawyer, and63 WHEREAS, Mr. Sanchez-Mayen remains liable for both Florida
64 and Pennsylvania Medicaid liens, and65 WHEREAS, the settlement agreement provides for the entry of
66 a consent judgment for the remaining amount of \$2.3 million and
67 cooperation by the City of St. Petersburg in not opposing this
68 claim bill, NOW, THEREFORE,

69

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

71

72 Section 1. The facts stated in the preamble to this act are
73 found and declared to be true.74 Section 2. The City of St. Petersburg is directed to draw a
75 warrant in the sum of \$2.3 million payable to Heriberto A.
76 Sanchez-Mayen as compensation for injuries and damages
77 sustained.78 Section 3. The amount paid by the City of St. Petersburg
79 pursuant to s. 768.28, Florida Statutes, and the amount awarded
80 under this act are intended to provide the sole compensation for
81 all present and future claims arising out of the factual
82 situation described in this act which resulted in injuries and
83 damages to Heriberto A. Sanchez-Mayen. The total amount paid for
84 attorney fees relating to this claim may not exceed 25 percent
85 of the total amount awarded under this act.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DARRYL ERVIN ROUSON

16th District

COMMITTEES:

Appropriations, Vice Chair
Agriculture
Appropriations Committee on Criminal and Civil Justice
Appropriations Committee on Health and Human Services
Children, Families, and Elder Affairs
Ethics and Elections
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

January 30, 2025

Sen. Clay Yarborough
Chairman, Committee on Judiciary
515 Knot Building
404 S Monroe St
Tallahassee, FL 32399

Dear Chairman Yarborough,

I am respectfully requesting SB 16, Relief of Heriberto A. Sanchez-Mayen by the City of St. Petersburg, be added to the agenda of a forthcoming meeting of the Committee on Judiciary for consideration.

I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

1/12/25
Meeting Date
Inducary
Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Name

SB 16
Bill Number or Topic

Address

Amendment Barcode (if applicable)

Street

Phone

City

Email

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://www.flsenate.gov/2020-2022JointRules.pdf) (flsenate.gov)

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

S-001 (08/10/2021)



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

409 The Capitol

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
1/5/26	SM	Favorable
1/12/26	JU	Pre-meeting

January 5, 2026

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 24** – Senator Gruters
HB 6515 – Representative Busatta
Relief of Lourdes Latour and Edward Latour by Miami-Dade County

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM BILL FOR LOCAL FUNDS IN THE AMOUNT OF \$500,000, PAYABLE FROM UNENCUMBERED FUNDS OF MIAMI-DADE COUNTY, BASED ON A SETTLEMENT AGREEMENT BETWEEN LOURDES AND EDWARD LATOUR AND MIAMI-DADE COUNTY. THE SETTLEMENT AGREEMENT RESOLVED A CIVIL ACTION THAT AROSE FROM THE ALLEGED NEGLIGENCE OF THE COUNTY THAT CAUSED INJURIES TO LOURDES LATOUR AND HER HUSBAND, EDWARD LATOUR.

FINDINGS OF FACT:

At approximately 10:45 on the morning of November 5, 2017, Lourdes LaTour and her Husband, Edward LaTour (collectively “Claimants”), were bicycling to visit a relative in the Gables by the Sea Community (the “Community”) located in Coral Gables, Miami-Dade County (the “County”), something they had done together ten to fifteen times prior. At all times relevant to the matter, the County owned the land upon where the accident occurred and was the legal entity that designed, operated, maintained, and controlled the guard gates and guard houses of the Community.

The Claimants entered the Community without incident and sometime later (within 30 minutes) began to exit the Community on their bicycles. As there was insufficient space for a bicycle to bypass the gate when exiting, and as they had done during their prior visits to the Community while on bicycles, they approached the guard gate to exit and the gate's arm opened for Mr. LaTour to exit. After his successful exit, the gate arm closed. Mrs. LaTour waited for the gate arm to open again so she could exit. Once the gate arm opened, Mrs. LaTour began to exit but the gate arm closed suddenly and unexpectedly before she had cleared the gate, striking her and knocking her off her bicycle. A bystander called 911 and Mrs. LaTour was transported by Miami-Dade EMS to South Miami Hospital.

Once she was knocked to the ground, Mrs. LaTour came in and out of consciousness several times. She remembers hearing her husband scream, fluid coming from the back of her mouth, someone yelling not to move her, a woman telling her everything would be okay, and someone bringing ice for her head.¹ She remembers EMS personnel moving her, waking up in an ambulance, waking up in the hospital, and having her clothing cut off of her.²

On the day of the accident, Lourdes LaTour was 63 years old and Edward LaTour was 67 years old. They had been married for 43 years. Both of the LaTours were born in Cuba but are U.S. citizens and have lived in Miami since they were small children. They have two grown children together.

INJURIES – As a result of the accident, Mrs. Latour suffered a supracondylar humerus fracture with intercondylar split in her left arm which is a severe break of the upper arm bone just above the elbow, with the added complication of a fracture line that goes through the elbow joint. Treatment of her injury required three surgical procedures over the year following the accident as the fracture resulted in a non-union as it healed.

Mrs. LaTour's first surgery was performed on November 7, 2017. Her orthopedic surgeon, Robert Miki, M.D., testified that because the fracture was within the elbow joint, he had to

¹ Deposition of Lourdes LaTour, July 16, 2019, p. 67, line 21 – p. 68, line 17.

² *Id.*

break another bone to get to the fracture site.³ Dr. Miki testified that the surgery included the placement of a screw, wires, and two metal plates in her arm.⁴

Mrs. LaTour's second surgery was performed by Dr. Miki on April 11, 2018. During this surgery, Dr. Miki testified he opened the wound and removed one of the plates and the screw he had placed in the arm to heal the bone he had to break during the first surgery.⁵

Mrs. LaTour's third surgery was performed by Dr. Miki on August 31, 2018. During this surgery, Dr. Miki testified that because her bones had not yet healed, he had to remove the remaining plate in her arm and replace it with a set of new plates.⁶ After this surgery, her arm was placed in a long-arm cast.

Mrs. Latour suffers permanent shooting pain on a daily basis that limits her ability to perform many basic activities of daily living, including driving, shopping, laundry, cooking, bathing, grooming, and household chores.⁷ Her injuries have required her to give up activities she enjoyed prior to the accident, including boating, gardening, dancing, working out, bicycling, going for walks, Pilates, and yoga.⁸ Due to the pain and lack of strength, her left arm has limited function.

Dr. Miki testified that he believes Mrs. LaTour will develop some level of traumatic arthritis⁹, that her injuries are "definitely permanent"¹⁰, and that she may need additional surgeries to release the ulnar nerve and remove the plates in her arm.¹¹

LITIGATION HISTORY:

On October 17, 2018, Claimants filed a lawsuit against the County. In January 2025, the case proceeded to trial and the jury returned a verdict in favor of the Claimants. The verdict awarded \$4,750,000 to Mrs. LaTour (\$4,000,000 for past damages and \$750,000 for future damages) and \$165,000 to

³ Deposition of Roberto A. Miki, M.D., Dec. 15, 2022, p. 14, lines 3 – 9.

⁴ *Id.* at p. 14, lines 14 - 21.

⁵ *Id.* at p. 22, lines 18 – 25.

⁶ *Id.* at p. 27, lines 1 – 7.

⁷ Deposition of Lourdes LaTour, July 16, 2019, p. 69, lines 10 – 15; p.72, line 23 – p. 75, line 10.

⁸ *Id.*

⁹ Deposition of Roberto A. Miki, M.D., Dec. 15, 2022, p. 37, lines 9 – 15.

¹⁰ *Id.* at p. 39, lines 15 – 18.

¹¹ *Id.* at p. 36, lines 19 – 25.

SPECIAL MASTER'S FINAL REPORT – SB 24

December 1, 2025

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Mr. LaTour (\$100,000 for past damages and \$65,000 for future damages). The jury found the County 100 per cent at fault and found no fault against the Claimants or the company providing guard services at the gate, U.S. Security Associates.

The County appealed the verdict and a settlement was reached by the parties prior to the appellate court ruling on the matter. Pursuant to the settlement agreement, the County agreed to pay the Claimants \$800,000. The terms of the agreement required the County to pay the sovereign immunity limits of \$300,000, with the remaining \$500,000 balance to be paid upon the passage of a claim bill.

RESPONDENT'S POSITION:

The County agrees that the passage of this claim bill in the amount of \$500,000 is in the parties' mutual best interests. The County supports the passage of this claim bill. The source of payment for this claim bill would be from Miami-Dade County's Self Insurance Fund.

CONCLUSIONS OF LAW:

The claim bill hearing held on November 3, 2025, was a *de novo* proceeding to determine whether the County is liable in negligence for damages it may have caused to the Claimants, and, if so, whether the amount of the claim is reasonable. This report is based on evidence presented to the special master prior to, during, and after the hearing. The Legislature is not bound by settlements or jury verdicts when considering a claim bill, the passage of which is an act of legislative grace.

Section 768.28, of the Florida Statutes, limits the amount of damages a claimant can collect from government entities as a result of its negligence or the negligence of its employees to \$200,000 for one individual and \$300,000 for all claims or judgments arising out of the same incident. Damages in excess of this limit may only be paid upon approval of a claim bill by the Legislature. Thus, the Claimants will not receive the full amount of the settlement unless the Legislature approves a claim bill authorizing additional payment.

Every claim bill must be based on facts sufficient to meet the "greater weight of the evidence" standard. The "greater weight of the evidence" burden of proof "means the more persuasive

and convincing force and effect of the entire evidence in the case.”¹²

Negligence

Negligence is “the failure to use reasonable care, which is the care that a reasonably careful person would use under like circumstances”;¹³ and “a legal cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the negligence, the loss, injury or damage would not have occurred.”¹⁴

There are four elements to a negligence claim: (1) duty – where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach – which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation – where the defendant’s conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages – actual harm.¹⁵

In this matter, the County’s liability depends on whether the County violated the applicable standard of care in the design, operation, maintenance, and control of the guard gate and guard house of the Community and whether this breach caused the resulting injuries to the Claimants.

Duty

A legal duty may arise from statutes or regulations; common law interpretations of statutes or regulations; other common law precedent; and the general facts of the case.¹⁶ This duty is known as the “standard of care.”

Under Florida’s premises liability law, a property owner owes two duties to an invitee: (1) to use reasonable care in maintaining the premises in a reasonably safe condition, and (2) to give the invitee warning of concealed perils which are or should be known to the landowner, and which are

¹² Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

¹³ Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

¹⁴ Fla. Std. Jury Instr. (Civ.), 401.12(a) - *Legal Cause, Generally*.

¹⁵ *Williams v. Davis*, 974 So. 2d 1052, 1056 (Fla. 2007). See also Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

¹⁶ *McCain v. Fla. Power Corp.*, 593 So. 2d 500, 503 n. 2 (Fla. 1992).

unknown to the invitee and cannot be discovered by the invitee through the exercise of due care.¹⁷

The Florida Supreme Court has opined that “[w]hile a city is not an insurer of the motorist or the pedestrian who travels its streets and sidewalks, it is responsible, of course, for damages resulting from defects which have been in existence so long that they could have been discovered by the exercise of reasonable care, and repaired.”¹⁸

In this matter, the County, as the property owner, had a duty to design, operate, maintain, and control the guard gates and guard houses of the Community in a non-negligent manner.

Breach

A preponderance of the evidence establishes that the County breached its duties by failing to design, operate, maintain, and control the guard gate and guard house of the Community in a non-negligent manner.

The Florida Department of Transportation Design Manual (FDM) sets forth design criteria for all new construction, reconstruction, and resurfacing projects on the State Highway System and the National Highway System.¹⁹ The FDM sets forth the criteria for planning and preparing for the construction and the operation of any road, path, or way which by law is open to bicycle travel, regardless of whether such facilities are signed and marked for the preferential use by bicyclists or are to be shared with other transportation modes.²⁰ For such bicycle facilities, the FDM requires maintaining a smooth, clean riding surface, free of obstructions.²¹

The Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (referred to as the Florida Green Book) provides uniform minimum standards and criteria for the design, construction,

¹⁷ See, *Knight v. Waltman*, 774 So. 2d 731 (Fla. 2007); *Owens v. Publix Supermarkets, Inc.*, 802 So. 2d 315 (Fla. 2001).

¹⁸ *Mullis v. City of Miami*, 60 So. 2d 174, 176 (Fla. 1952) (citing *City of Jacksonville v. Foster*, 41 So. 2d 548, 549 (Fla. 1949)).

¹⁹ *FDOT Design Manual*, Jan. 1, 2025, Sec. 100 - Purpose. <https://fdotwww.Design Manual> (Last visited November 14, 2025).

²⁰ Deposition of Rowland Lamb, Feb. 18, 2020, p. 16, lines 6 - 9.

²¹ *FDOT Design Manual*, Jan. 1, 2025, Sec. 223.1 – *Bicycle Facilities (General)*. <https://fdotwww.Design Manual> (Last visited November 14, 2025).

and maintenance of all transportation facilities, including all roads, highways, bridges, sidewalks, curbs and curb ramps, crosswalks, bicycle facilities, underpasses, and overpasses used by the public for vehicular and pedestrian traffic.²² The Manual requires that:

- Bicycle facilities be given full consideration in the planning and development of transportation facilities, including the incorporation of such facilities into state, regional, and local transportation plans, and programs under the assumption that transportation facilities will be used by bicyclists.
- All roadways, except where bicycle use is prohibited by law, should be designed, constructed, and maintained under the assumption they will be used by bicyclists.²³

Credible and uncontested testimony from the County's expert witness, Renato R. Vega, revealed:

- That the opening of the gate is triggered by a vehicle loop sensor placed in a groove cut into the asphalt acting as an antenna that sends a signal to the gate operating mechanism that a mass of metal is above the sensor.²⁴
- That a bicycle should never trigger such a gate operating system to open.²⁵
- If the gate operating system is opening for bicycles, it is recommended that:
 - The system be "retuned" so that it will not open for bicycles;
 - Warning signs be placed;
 - A different sensor be installed;
 - A separate bicycle path be provided; or
 - The site be redesigned where bicycles are not required to exit through the gate.²⁶

Credible and uncontested testimony from the Claimants' expert witness, David Rowland Lamb, revealed:

- At the time of the accident, there was only fifteen inches of space from the right edge of the exit gate arm to the

²² *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways - Purpose.* <https://fdotwww.blob/floridagreenbook> (last visited November 14, 2025).

²³ *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways*, Chapter 9 – Bicycle Facilities. <https://fdotwww.blob/floridagreenbook> (last visited November 14, 2025).

²⁴ Deposition of Renato R. Vega, March 3, 2020, p. 21, lines 17 – 25.

²⁵ *Id.* at p. 24, lines 8 – 13.

²⁶ *Id.* at p. 48, line 21 – p. 52, line 12.

curb making it impossible for a bicycle to ride through the gate without the gate arm being opened.²⁷

- The Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways minimum standards for counties were not met at the Community exit.²⁸
- Pursuant to the American Association of State Highway and Transportation Officials Code, at least 48 inches is needed for a bicycle to bypass the gate.²⁹
- At the time of the incident, there were no advanced warnings or signs to give bicyclists directions as to what they were supposed to do to exit the community.³⁰
- That it was foreseeable that bicyclists would be exiting the community.³¹
- Lack of training or direction to the guards maintaining the gate arm created insufficient lateral clearance for a bicycle to exit around the side of the gate arm.³²
- The lack of adequate direction and width to pass to the right of the gate arm accompanied with the gate arm not allowing for safe passage of a bicyclist is a violation of subsection 316.2065(1), of the Florida Statutes, which requires:

Every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.³³

Causation

In order to prove negligence, the Claimants must show that the breach of duty caused the specific injury or damage to the plaintiff.³⁴ Proximate cause is generally concerned with “whether and to what extent the defendant’s conduct foreseeably and substantially caused the specific injury that actually occurred.”³⁵ To prove proximate cause, the Claimants

²⁷ Deposition of Rowland Lamb, Feb. 18, 2020, p. 16, lines 6 - 9.

²⁸ *Id.* at p. 17, lines 18 – 22.

²⁹ *Id.* at p. 31, lines 5 – 9.

³⁰ *Id.* at p. 31, lines 15 - 18.

³¹ *Id.* at p. 31, lines 22 - 24.

³² *Id.* at p. 31, lines 25 – 33.

³³ *Id.* at p. 33, line 23 – p. 35 line 6.

³⁴ *Stahl v. Metro Dade Cnty.*, 438 So. 2d 14 (Fla. 3rd DCA 1983).

³⁵ *Dept. of Children and Family Svcs. v. Amora*, 944 So. 2d 431, 435 (Fla. 4th DCA 2006).

must submit evidence showing there is a sequence between the County's negligence and the Claimants' injuries such that it can be reasonably said that but for the County's negligence, the injuries would not have occurred.

The record includes expert testimony that the lack of signage, pavement markings, inadequate maintenance operations, and flawed design of the Community exit created the conditions that led to the Claimants' injuries.³⁶ Mrs. LaTour's surgeon testified that there was no reason to question the mechanism (that her fall was caused by the gate arm) that caused the distal fracture of her left arm.³⁷

In this matter, the greater weight of the evidence is the injuries suffered by the LaTours were the direct and proximate result of the County's failure to fulfill its duties in a non-negligent manner. The County breached its duties by failing to design, operate, maintain, and control the guard gate and guard house of the Community in a non-negligent manner and these failures led to the injuries suffered by the Claimants.

Damages

The Claimants have established that Mrs. Latour suffered permanent injuries to her arm, resulting in three surgeries to date, with the need for certain additional future medical services. The Claimants' quality of life has been significantly affected, and will continue to be in the future, due to Mrs. LaTour's constant pain and the limits her injuries have placed on her. The record demonstrates that the Latours have suffered substantial economic and emotional loss. Based on these losses, the jury in the civil trial awarded \$4,750,000 to Mrs. LaTour (\$4,000,000 for past damages and \$750,000 for future damages) and \$165,000 to Mr. LaTour (\$100,000 for past damages and \$65,000 for future damages).

As a result of the settlement agreement entered by the parties, the County has paid \$300,000 (the maximum allowed under the state's sovereign immunity waiver) with the remaining \$500,000 to be paid if this claim bill is passed by the Legislature and becomes law.

³⁶ Deposition of Rowland Lamb, Feb. 18, 2020, p. 33, lines 13 - 21.

³⁷ Deposition of Roberto A. Miki, M.D., Dec. 15, 2022, p. 11, lines 3 – 5.

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December 1, 2025

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COLLATERAL SOURCES OF RECOVERY:

Prior to the civil litigation, the Claimants received a settlement from businesses responsible for the installation and maintenance of the gate operation. The amount of this settlement was \$295,000.

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded.³⁸ The Claimants' attorney has agreed to limit attorney and lobbying fees to 25 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

With respect to this claim bill, the Claimants proved that the County had a duty to the Claimants, the County breached that duty, and that breach caused the Claimants' injuries and resulting damages. The greater weight of the evidence in this matter demonstrates that the negligence of the County in the design and operation of the guard gate at the Community was the legal proximate cause of the injuries and damages suffered by the LaTours. Based on the record, and in recognition of the jury award of \$4,915,000, the award under this claim bill is well within the actual damages suffered by the Claimants.

Based upon the arguments and documents provided before, during, and after the special master hearing, the undersigned finds that the settlement is a proper and fair agreement.

Accordingly, I recommend that SB 24 be reported FAVORABLY in the amount of \$500,000.

Respectfully submitted,

Tom Thomas
Senate Special Master

cc: Secretary of the Senate

³⁸ See s. 768.28(8), F.S.

By Senator Gruters

22-00047-26

A bill to be entitled

202624

10 WHEREAS, on November 5, 2017, Lourdes Latour sustained
11 serious injuries when she was struck by a malfunctioning
12 automatic gate arm while exiting the Gables by the Sea community
13 on her bicycle in Miami-Dade County, and

14 WHEREAS, the automatic gate arm at the community exit
15 malfunctioned, striking Lourdes Latour and throwing her from her
16 bicycle, causing her to sustain permanent injuries, and

17 WHEREAS, Lourdes Latour and Edward Latour have alleged,
18 through a lawsuit filed on November 21, 2018, that the
19 negligence of Miami-Dade County in the ownership, operation,
20 maintenance, and control of the subject exit gate was the
21 proximate cause of the injuries sustained by Mrs. Latour, an

22 WHEREAS, the lawsuit proceeded to trial, and on January 16,
23 2025, a jury returned a verdict in favor of Mr. and Mrs. Latour,
24 finding Miami-Dade County 100 percent liable for the incident,
25 and

26 WHEREAS, the jury awarded Mrs. Latour \$4.75 million for her
27 injuries and Mr. Latour \$165,000 for his loss of consortium, and

28 WHEREAS, Mrs. Latour has suffered significant pain and
29 suffering, disability, physical impairment, disfigurement,

Page 1 of 3

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30 mental anguish, inconvenience, and loss of capacity for
31 enjoyment of life, and

32 WHEREAS, Mr. Latour has suffered loss of his wife's
33 comfort, society, attention, and services, and

34 WHEREAS, following the verdict and entry of final judgment,
35 Mr. and Mrs. Latour and Miami-Dade County reached a settlement
36 in the amount of \$800,000, and

37 WHEREAS, pursuant to the settlement agreement between the
38 parties, the plaintiffs' claim will be partially satisfied by
39 Miami-Dade County paying the amount of \$300,000 to Mr. and Mrs.
40 Latour, and

41 WHEREAS, pursuant to the settlement, Miami-Dade County
42 supports and agrees that Mr. and Mrs. Latour should receive as
43 compensation the remaining \$500,000 of the settlement amount,
44 and their claim shall be considered fully satisfied by Miami-
45 Dade County paying this \$500,000 to Mr. and Mrs. Latour, as
46 authorized by the Florida Legislature through a claim bill, NOW,
47 THEREFORE.

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

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

53 Section 2. Miami-Dade County is authorized and directed to
54 appropriate from funds not otherwise encumbered and to draw a
55 warrant in the sum of \$500,000 payable to Lourdes Latour and
56 Edward Latour as compensation for injuries and damages
57 sustained.

58 Section 3. The amount paid by Miami-Dade County pursuant to

Page 2 of 3

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59 s. 768.28, Florida Statutes, and the amount awarded under this
60 act are intended to provide the sole compensation for all
61 present and future claims arising out of the factual situation
62 described in this act which resulted in injuries and damages to
63 Lourdes Latour and Edward Latour. The total amount paid for
64 attorney fees relating to this claim may not exceed 25 percent
65 of the total amount awarded under this act.

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

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 Committee on Community Affairs

BILL: CS/SB 208

INTRODUCER: Judiciary Committee and Senator McClain

SUBJECT: Land Use and Development Regulations

DATE: January 13, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hackett	Fleming	CA	Favorable
2. Collazo	Cibula	JU	Fav/CS
3. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 208 facilitates residential development by making the development permit and development order application process less costly. The bill also makes it harder for local governments to deny applications due to a lack of compatibility by requiring them to issue specific and objective reasons for such denials.

Specifically, the bill:

- Requires local governments to charge development permit and development order application fees that reasonably relate to the costs associated with the review, processing, and final disposition of applications.
- Requires local government comprehensive plans and land development regulations to include factors for assessing the compatibility of allowable residential uses within a residential zoning district and future land use category.
- Requires land development regulations to incorporate objective design standards or other measures for mitigating or minimizing potential incompatibility.
- Requires local government staff to identify specific areas of incompatibility, and authorizes staff to recommend mitigation measures to applicants, before recommending denial of rezoning, subdivision, or site plan approval applications on compatibility grounds.
- Prohibits local governments from denying an application on compatibility grounds unless the denial includes written findings identifying areas of incompatibility and concluding that proposed mitigation measures are inadequate and no feasible mitigation measures exist.

- Renders the bill's provisions inapplicable to compatibility between uses in different future land use categories, applications for development within planned unit developments or master planned communities, and applications for development within historic districts designated before January 1, 2026.

The bill takes effect January 1, 2027.

II. Present Situation:

Comprehensive Plans

The Community Planning Act directs counties and municipalities to plan for future development by adopting comprehensive plans.¹ Each local government must maintain a comprehensive plan to guide future development.²

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.³ A comprehensive plan is intended to provide for the future use of land, which contemplates gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

Comprehensive plans lay out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. They are made up of 10 required elements, each laying out regulations for different facets of development.⁴

The 10 required elements consider and address capital improvements; future land uses; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.⁵

The Future Land Use Element

Comprehensive plans must include an element regarding future land use that designates the proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.⁶ Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.⁷ The proposed

¹ Section 163.3167(1), F.S.

² Section 163.3167(2), F.S.

³ Section 163.3194(3), F.S.

⁴ Section 163.3177(3) and (6), F.S.

⁵ *Id.*

⁶ Section 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. Section 163.3177(6)(a)10., F.S.

⁷ Section 163.3177(6)(a)1., F.S.

distribution, location, and extent of the various categories of land use must be shown on a land use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.⁸

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.⁹

Compatibility

The future land use element must consider what uses are compatible with one another to guide rezoning requests, development orders, and plan amendments.¹⁰ Compatibility means "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition."¹¹ In other words, the compatibility requirement permits local governments to consider whether a proposed use can peacefully coexist with existing uses.

Local governments, through the future land use plan, are responsible for ensuring compatibility of uses on adjacent lands, and particularly those lands in proximity to military installations and airports.¹² To act on this requirement, land use regulations are required to contain specific and detailed provisions necessary to ensure the compatibility of adjacent land uses.¹³ In practice, these regulations take the form of zoning codes with compatibility standards for height, density, setbacks, parking, and other general regulations on what types of developments can coexist.¹⁴

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and include any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.¹⁵

Each county and municipality must adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.¹⁶ Local governments are encouraged to use innovative land development regulations¹⁷ and may adopt measures for the purpose of increasing affordable housing using land use mechanisms.¹⁸ Land development

⁸ Section 163.3177(6)(a)2., F.S.

⁹ Richard Grosso, *A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215*, 34 J. ENVTL. L. & LITIG. 129, 154 (2019) (citing *Brevard Cty. v. Snyder*, 627 So. 2d 469, 475 (Fla. 1993)).

¹⁰ Section 163.3194(3), F.S.

¹¹ Section 163.3164(9), F.S.

¹² Section 163.3177(6)(a)2., F.S.

¹³ Section 163.3202(2)(b), F.S.

¹⁴ See, e.g., s. 5.10 (Residential Compatibility Standards), Land Development Code of Maitland, Florida.

¹⁵ Section 163.3164(26), F.S.

¹⁶ Section 163.3202(1), F.S.

¹⁷ Section 163.3202(3), F.S.

¹⁸ Sections 125.01055 and 166.04151, F.S.

regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.¹⁹

III. Effect of Proposed Changes:

The bill facilitates residential development by making the development permit and development order application process less costly. It also makes it harder for local governments to deny applications due to a lack of compatibility by requiring them to issue specific and objective reasons for such denials.

Development Permit and Development Order Application Fees

In **Sections 1 and 2**, the bill amends two statutes regulating how local governments review development permit and development order applications²⁰ to also address application fees.

Specifically, the bill requires the amount of any application fee associated with a development permit or development order to reasonably relate to the direct and reasonable indirect costs associated with the review, processing, and final disposition of the development permit or development order application. The fee must be published on the local government's fee schedule and may not be based on a percentage of construction costs, site costs, or project valuation.

Compatibility

Section 3 of the bill amends a statute addressing the legal status of the comprehensive plan²¹ to incorporate several compatibility-related requirements.

The bill requires local government comprehensive plans and land development regulations to include factors for assessing the compatibility of allowable residential uses within a residential zoning district and future land use category. Such factors may include:

- Intensity.
- Density.
- Scale.
- Building size.
- Mass.
- Bulk.
- Height and orientation.
- Lot coverage.
- Lot size and configuration.
- Architectural style.
- Permeability.
- Screening.
- Buffers.

¹⁹ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

²⁰ Sections 125.022 and 166.033, F.S.

²¹ Section 163.3194, F.S.

- Setbacks.
- Stepbacks.
- Transitional areas.
- Signage.
- Traffic and pedestrian circulation and access.
- Operational impacts such as noise, odor, and lighting.

The bill also requires land development regulations to incorporate objective design standards or other measures for mitigating or minimizing potential incompatibility.

With respect to how compatibility is considered during the rezoning, subdivision, or site plan approval review process, the bill provides as follows:

- Before recommending denial of an application on compatibility grounds, local government staff must identify with specificity each area of incompatibility; staff may also recommend mitigation measures to the applicant.
- If the applicant has proposed mitigation measures, the local government may not deny an application on compatibility grounds unless the denial includes written findings stating that the proposed mitigation measures are inadequate and that no feasible mitigation measures exist.
- A denial of an application on compatibility grounds must specify with particularity the area or areas of incompatibility, including applicable standards and an explanation of any mitigation measures considered and declined by the applicant, or the basis for determining that no feasible mitigation measures exist; references to “community character” or “neighborhood feel” are not sufficient in and of themselves to support a denial of an application on compatibility grounds.
- A local government’s approval of an application may include requirements or conditions to mitigate or minimize compatibility concerns.

The compatibility requirements in the bill do not apply to:

- Compatibility between uses in different future land use categories, including rural, agricultural, conservation, open space, mixed-use, industrial, or commercial use.
- Applications for development within planned unit developments or master planned communities.
- Applications for development within historic districts designated before January 1, 2026.

Additionally, the bill does not require approval of an application that is otherwise inconsistent with the applicable local government comprehensive plan or land development regulations.

Effective Date

Section 4 of the bill provides an effective date of January 1, 2027.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill requires the amount of any application fee associated with a development permit or development order to reasonably relate to the direct and reasonable indirect costs associated with the review, processing, and final disposition of the application, and to be published on the local government's fee schedule. The fee may not be based on a percentage of construction costs, site costs, or project valuation.

Based upon this change, it appears the bill will result in a positive fiscal impact to private sector applicants because they are likely to pay less in fees and charges to local governments, although the extent of this impact is unclear.

C. Government Sector Impact:

The bill requires the amount of any application fee associated with a development permit or development order to reasonably relate to the direct and reasonable indirect costs associated with the review, processing, and final disposition of the application, and to be published on the local government's fee schedule. The fee may not be based on a percentage of construction costs, site costs, or project valuation.

Based upon this change, it appears the bill will result in a negative fiscal impact to local governments because they will likely collect less in fees and charges from private sector applicants, although the extent of this impact is unclear. The bill will reduce revenues to local governments to the extent that they charge more than their actual costs for services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.022, 166.033, and 163.3194.

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

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

CS by Judiciary on January 12, 2026:

The committee substitute replaces the original bill with one that facilitates residential development by making the development permit and development order application process less costly. The bill also makes it harder for local governments to deny applications due to a lack of compatibility by requiring them to issue specific and objective reasons for such denials.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2026	.	
	.	
	.	
	.	

The Committee on Judiciary (McClain) recommended the following:

1 **Senate Amendment (with title amendment)**

2
3 Delete everything after the enacting clause
4 and insert:

5 Section 1. Present subsection (9) of section 125.022,
6 Florida Statutes, is redesignated as subsection (10), and a new
7 subsection (9) is added to that section, to read:

8 125.022 Development permits and orders.—

9 (9) The amount of any application fee associated with a
10 development permit or development order must reasonably relate
11 to the direct and reasonable indirect costs associated with the



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12 review, processing, and final disposition of the application and
13 must be published on the county's fee schedule. The fee may not
14 be based on a percentage of construction costs, site costs, or
15 project valuation.

16 Section 2. Present subsection (9) of section 166.033,
17 Florida Statutes, is redesignated as subsection (10), and a new
18 subsection (9) is added to that section, to read:

19 166.033 Development permits and orders.—

20 (9) The amount of any application fee associated with a
21 development permit or development order must reasonably relate
22 to the direct and reasonable indirect costs associated with the
23 review, processing, and final disposition of the application and
24 must be published on the municipality's fee schedule. The fee
25 may not be based on a percentage of construction costs, site
26 costs, or project valuation.

27 Section 3. Subsection (7) is added to section 163.3194,
28 Florida Statutes, to read:

29 163.3194 Legal status of comprehensive plan.—

30 (7) (a) Local government comprehensive plans and land
31 development regulations must include factors for assessing the
32 compatibility of allowable residential uses within a residential
33 zoning district and future land use category. Such factors may
34 include intensity, density, scale, building size, mass, bulk,
35 height and orientation, lot coverage, lot size and
36 configuration, architectural style, permeability, screening,
37 buffers, setbacks, stepbacks, transitional areas, signage,
38 traffic and pedestrian circulation and access, and operational
39 impacts, such as noise, odor, and lighting.

40 (b) Land development regulations must incorporate objective



41 design standards or other measures for mitigating or minimizing
42 potential incompatibility.

43 (c)1. Before recommending denial of an application for
44 rezoning, subdivision, or site plan approval on compatibility
45 grounds, local government staff must identify with specificity
46 each area of incompatibility and may recommend mitigation
47 measures to the applicant.

48 2. If the applicant has proposed mitigation measures, the
49 local government may not deny an application on compatibility
50 grounds unless the denial includes written findings stating that
51 the proposed mitigation measures are inadequate and that no
52 feasible mitigation measures exist.

53 3. A denial of an application on compatibility grounds must
54 specify with particularity the area or areas of incompatibility,
55 including applicable standards and an explanation of any
56 mitigation measures considered and declined by the applicant, or
57 the basis for determining that no feasible mitigation measures
58 exist. References to "community character" or "neighborhood
59 feel" are not sufficient in and of themselves to support a
60 denial of an application on compatibility grounds.

61 4. A local government's approval of an application may
62 include requirements or conditions to mitigate or minimize
63 compatibility concerns.

64 (d) This subsection does not apply to any of the following:

65 1. Compatibility between uses in different future land use
66 categories, including rural, agricultural, conservation, open
67 space, mixed-use, industrial, or commercial use.

68 2. Applications for development within planned unit
69 developments or master planned communities.



70 3. Applications for development within historic districts
71 designated before January 1, 2026.

72 (e) This section does not require approval of an
73 application that is otherwise inconsistent with the applicable
74 local government comprehensive plan or land development
75 regulations.

76 Section 4. This act shall take effect January 1, 2027.

77
78 ===== T I T L E A M E N D M E N T =====
79 And the title is amended as follows:

80 Delete everything before the enacting clause
81 and insert:

82 A bill to be entitled
83 An act relating to land use and development
84 regulations; amending ss. 125.022 and 166.033, F.S.;
85 requiring that the amount of certain application fees
86 reasonably relate to certain costs; requiring that
87 such fees be published on the county's or
88 municipality's fee schedule, respectively; requiring
89 that such fees not be based on certain costs or
90 valuations; amending s. 163.3194, F.S.; requiring that
91 local government comprehensive plans and land
92 development regulations include factors for assessing
93 the compatibility of certain residential uses;
94 requiring that land development regulations
95 incorporate certain objective standards or other
96 measures for mitigating or minimizing potential
97 incompatibility; requiring local government staff to
98 meet certain requirements before recommending denial



99 of certain applications on compatibility grounds;
100 prohibiting a local government from denying certain
101 applications on compatibility grounds if the applicant
102 has proposed certain measures; providing an exception;
103 requiring that the denial of an application specify
104 certain information; providing that a local
105 government's approval of an application may include
106 certain requirements or conditions; providing
107 applicability; providing construction; providing an
108 effective date.

By Senator McClain

9-00188-26

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30
31 Be It Enacted by the Legislature of the State of Florida:
32
33 Section 1. Present subsections (22) through (54) of section
34 163.3164, Florida Statutes, are redesignated as subsections (23)
35 through (55), respectively, a new subsection (22) is added to
36 that section, and subsection (9) of that section is amended, to
37 read:
38 163.3164 Community Planning Act; definitions.—As used in
39 this act:
40 (9) "Compatibility" means a condition in which land uses or
41 conditions within the same land use category can reasonably
42 coexist in relative proximity to each other in a stable and
43 enduring manner without creating undue adverse impacts on each
44 other. Compatibility requires a reasonable ability to fit within
45 the existing community fabric but does not require uniformity or
46 identical development. Residential land uses are compatible if
47 they fall within the same residential land use category as
48 designed in the local government's comprehensive plan fashion
49 over time such that no use or condition is unduly negatively
50 impacted directly or indirectly by another use or condition.
51 (22) "Infill residential development" means the development
52 of one or more parcels that are no more than 100 acres in size
53 within a future land use category that allows a residential use
54 and any zoning district that allows a residential use and which
55 parcels are contiguous with residential development on at least
56 50 percent of the parcels' boundaries. For purposes of this
57 subsection, the term "contiguous" means touching, bordering, or
58 adjoining along a boundary and includes properties that would be

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59 contiguous if not separated by a roadway, railroad, canal, or
 60 other public easement.

61 Section 2. Paragraph (b) of subsection (2) and paragraphs
 62 (a) and (b) of subsection (5) of section 163.3202, Florida
 63 Statutes, are amended, and subsections (8) and (9) are added to
 64 that section, to read:

65 163.3202 Land development regulations.—

66 (2) Local land development regulations shall contain
 67 specific and detailed provisions necessary or desirable to
 68 implement the adopted comprehensive plan and shall at a minimum:

69 (b) Regulate the use of land and water for those land use
 70 categories included in the land use element and ensure the
 71 compatibility of adjacent uses and provide for open space.

72 However, the land development regulations may not require the
 73 denial of, or condition or delay the approval of, residential
 74 development on the basis of a lack of compatibility if the
 75 proposed residential use is located adjacent to, or across a
 76 public right-of-way from, any existing residential development
 77 within the same land use category.

78 (5)(a) Land development regulations relating to building
 79 design elements may not be applied to a single-family or two-
 80 family dwelling unless:

81 1. The dwelling is listed in the National Register of
 82 Historic Places, as defined in s. 267.021(5); is located in a
 83 National Register Historic District; or is designated as a
 84 historic property or located in a historic district, under the
 85 terms of a local preservation ordinance;

86 2. The regulations are adopted in order to implement the
 87 National Flood Insurance Program;

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88 3. The regulations are adopted pursuant to and in
 89 compliance with chapter 553;

90 4. The dwelling is located in a community redevelopment
 91 area, as defined in s. 163.340(10);

92 5. The regulations are required to ensure protection of
 93 coastal wildlife in compliance with s. 161.052, s. 161.053, s.
 94 161.0531, s. 161.085, s. 161.163, or chapter 373;

95 6. The dwelling is located in a planned unit development or
 96 master planned community created pursuant to a local ordinance,
 97 resolution, or other final action approved by the local
 98 governing body before July 1, 2023, provided that such
 99 regulations were expressly adopted as part of the approval
 100 documents for the planned unit development or master planned
 101 community; or

102 7. The dwelling is located within the jurisdiction of a
 103 local government that has a design review board or an
 104 architectural review board created by ordinance before January
 105 1, 2020, and such board has continuously existed since that
 106 date. A local government may not create, recreate, or expand the
 107 jurisdiction of such a board after January 1, 2020, for the
 108 purpose of regulating single-family or two-family dwellings.

109 (b) For purposes of this subsection, the term:

110 1. Architectural review board means a body established
 111 and maintained by a private homeowners' association, property
 112 owners' association, or condominium association under chapter
 113 718 or chapter 720 which is authorized by recorded covenants or
 114 governing documents to review and approve building design
 115 elements on private property. The term does not include any
 116 board, committee, or panel created or controlled by a local

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117 government.

118 2. "Building design elements" means the external building
119 color; the type or style of exterior cladding material; the
120 style or material of roof structures or porches; the exterior
121 nonstructural architectural ornamentation; the location or
122 architectural styling of windows or doors; the location or
123 orientation of the garage; the number and type of rooms; and the
124 interior layout of rooms. The term does not include the height,
125 bulk, orientation, or location of a dwelling on a zoning lot; or
126 the use of buffering or screening to minimize potential adverse
127 physical or visual impacts or to protect the privacy of
128 neighbors.

129 3.2. "Planned unit development" or "master planned
130 community" means an area of land that is planned and developed
131 as a single entity or in approved stages with uses and
132 structures substantially related to the character of the entire
133 development, or a self-contained development in which the
134 subdivision and zoning controls are applied to the project as a
135 whole rather than to individual lots.

136 (8) Notwithstanding any ordinance to the contrary, an
137 application for an infill residential development must be
138 administratively approved without requiring a comprehensive plan
139 amendment, rezoning, variance, or any other public hearing by
140 any board or reviewing body if the proposed infill residential
141 development is consistent with current development standards and
142 the density of the proposed infill residential development is
143 the same as the average density of contiguous properties. A
144 development authorized under this subsection must be treated as
145 a conforming use, notwithstanding the local government's

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146 comprehensive plan, future land use designation, or zoning.

147 (9) (a) Land development regulations may not condition the
148 approval of an application for infill residential development,
149 or any other residential development authorized under this act,
150 on the payment of any fee, charge, or exaction based on a
151 percentage of construction costs, site costs, or project
152 valuation.

153 (b) Any fee or charge imposed by a local government in
154 connection with the review, processing, or inspection of a
155 residential development application must meet all of the
156 following requirements:

157 1. Must be limited to the actual cost of the service
158 provided by the local government.
159 2. Must be clearly itemized and published on the local
160 government's fee schedule.
161 3. May not exceed the limits established for building and
162 inspection fees under s. 553.80.
163 (c) The approval of a residential development application
164 may not be withheld or delayed because of nonpayment, or
165 conditioned on payment, of a fee or charge imposed in violation
166 of this subsection.

167 Section 3. Paragraph (d) of subsection (2) of section
168 212.055, Florida Statutes, is amended to read:

169 212.055 Discretionary sales surtaxes; legislative intent;
170 authorization and use of proceeds.—It is the legislative intent
171 that any authorization for imposition of a discretionary sales
172 surtax shall be published in the Florida Statutes as a
173 subsection of this section, irrespective of the duration of the
174 levy. Each enactment shall specify the types of counties

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175 authorized to levy; the rate or rates which may be imposed; the
 176 maximum length of time the surtax may be imposed, if any; the
 177 procedure which must be followed to secure voter approval, if
 178 required; the purpose for which the proceeds may be expended;
 179 and such other requirements as the Legislature may provide.
 180 Taxable transactions and administrative procedures shall be as
 181 provided in s. 212.054.

182 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

183 (d) The proceeds of the surtax authorized by this
 184 subsection and any accrued interest shall be expended by the
 185 school district, within the county and municipalities within the
 186 county, or, in the case of a negotiated joint county agreement,
 187 within another county, to finance, plan, and construct
 188 infrastructure; to acquire any interest in land for public
 189 recreation, conservation, or protection of natural resources or
 190 to prevent or satisfy private property rights claims resulting
 191 from limitations imposed by the designation of an area of
 192 critical state concern; to provide loans, grants, or rebates to
 193 residential or commercial property owners who make energy
 194 efficiency improvements to their residential or commercial
 195 property, if a local government ordinance authorizing such use
 196 is approved by referendum; or to finance the closure of county-
 197 owned or municipally owned solid waste landfills that have been
 198 closed or are required to be closed by order of the Department
 199 of Environmental Protection. Any use of the proceeds or interest
 200 for purposes of landfill closure before July 1, 1993, is
 201 ratified. The proceeds and any interest may not be used for the
 202 operational expenses of infrastructure, except that a county
 203 that has a population of fewer than 75,000 and that is required

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204 to close a landfill may use the proceeds or interest for long-
 205 term maintenance costs associated with landfill closure.
 206 Counties, as defined in s. 125.011, and charter counties may, in
 207 addition, use the proceeds or interest to retire or service
 208 indebtedness incurred for bonds issued before July 1, 1987, for
 209 infrastructure purposes, and for bonds subsequently issued to
 210 refund such bonds. Any use of the proceeds or interest for
 211 purposes of retiring or servicing indebtedness incurred for
 212 refunding bonds before July 1, 1999, is ratified.

213 1. For the purposes of this paragraph, the term
 214 "infrastructure" means:

215 a. Any fixed capital expenditure or fixed capital outlay
 216 associated with the construction, reconstruction, or improvement
 217 of public facilities that have a life expectancy of 5 or more
 218 years, any related land acquisition, land improvement, design,
 219 and engineering costs, and all other professional and related
 220 costs required to bring the public facilities into service. For
 221 purposes of this sub subparagraph, the term "public facilities"
 222 means facilities as defined in s. 163.3164(42) ~~s. 163.3164(41)~~,
 223 s. 163.3221(13), or s. 189.012(5), and includes facilities that
 224 are necessary to carry out governmental purposes, including, but
 225 not limited to, fire stations, general governmental office
 226 buildings, and animal shelters, regardless of whether the
 227 facilities are owned by the local taxing authority or another
 228 governmental entity.

229 b. A fire department vehicle, an emergency medical service
 230 vehicle, a sheriff's office vehicle, a police department
 231 vehicle, or any other vehicle, and the equipment necessary to
 232 outfit the vehicle for its official use or equipment that has a

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233 life expectancy of at least 5 years.

234 c. Any expenditure for the construction, lease, or
 235 maintenance of, or provision of utilities or security for,
 236 facilities, as defined in s. 29.008.

237 d. Any fixed capital expenditure or fixed capital outlay
 238 associated with the improvement of private facilities that have
 239 a life expectancy of 5 or more years and that the owner agrees
 240 to make available for use on a temporary basis as needed by a
 241 local government as a public emergency shelter or a staging area
 242 for emergency response equipment during an emergency officially
 243 declared by the state or by the local government under s.

244 252.38. Such improvements are limited to those necessary to
 245 comply with current standards for public emergency evacuation
 246 shelters. The owner must enter into a written contract with the
 247 local government providing the improvement funding to make the
 248 private facility available to the public for purposes of
 249 emergency shelter at no cost to the local government for a
 250 minimum of 10 years after completion of the improvement, with
 251 the provision that the obligation will transfer to any
 252 subsequent owner until the end of the minimum period.

253 e. Any land acquisition expenditure for a residential
 254 housing project in which at least 30 percent of the units are
 255 affordable to individuals or families whose total annual
 256 household income does not exceed 120 percent of the area median
 257 income adjusted for household size, if the land is owned by a
 258 local government or by a special district that enters into a
 259 written agreement with the local government to provide such
 260 housing. The local government or special district may enter into
 261 a ground lease with a public or private person or entity for

Page 9 of 11

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262 nominal or other consideration for the construction of the
 263 residential housing project on land acquired pursuant to this
 264 sub-subparagraph.

265 f. Instructional technology used solely in a school
 266 district's classrooms. As used in this sub-subparagraph, the
 267 term "instructional technology" means an interactive device that
 268 assists a teacher in instructing a class or a group of students
 269 and includes the necessary hardware and software to operate the
 270 interactive device. The term also includes support systems in
 271 which an interactive device may mount and is not required to be
 272 affixed to the facilities.

273 2. For the purposes of this paragraph, the term "energy
 274 efficiency improvement" means any energy conservation and
 275 efficiency improvement that reduces consumption through
 276 conservation or a more efficient use of electricity, natural
 277 gas, propane, or other forms of energy on the property,
 278 including, but not limited to, air sealing; installation of
 279 insulation; installation of energy-efficient heating, cooling,
 280 or ventilation systems; installation of solar panels; building
 281 modifications to increase the use of daylight or shade;
 282 replacement of windows; installation of energy controls or
 283 energy recovery systems; installation of electric vehicle
 284 charging equipment; installation of systems for natural gas fuel
 285 as defined in s. 206.9951; and installation of efficient
 286 lighting equipment.

287 3. Notwithstanding any other provision of this subsection,
 288 a local government infrastructure surtax imposed or extended
 289 after July 1, 1998, may allocate up to 15 percent of the surtax
 290 proceeds for deposit into a trust fund within the county's

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291 accounts created for the purpose of funding economic development
292 projects having a general public purpose of improving local
293 economies, including the funding of operational costs and
294 incentives related to economic development. The ballot statement
295 must indicate the intention to make an allocation under the
296 authority of this subparagraph.

297 4. Surtax revenues that are shared with eligible charter
298 schools pursuant to paragraph (c) shall be allocated among such
299 schools based on each school's proportionate share of total
300 school district capital outlay full-time equivalent enrollment
301 as adopted by the education estimating conference established in
302 s. 216.136. Surtax revenues must be expended by the charter
303 school in a manner consistent with the allowable uses provided
304 in s. 1013.62(4). All revenues and expenditures shall be
305 accounted for in a charter school's monthly or quarterly
306 financial statement pursuant to s. 1002.33(9). If a school's
307 charter is not renewed or is terminated and the school is
308 dissolved under the provisions of law under which the school was
309 organized, any unencumbered funds received under this paragraph
310 shall revert to the sponsor.

311 Section 4. This act shall take effect July 1, 2026.



The Florida Senate

Committee Agenda Request

To: Senator Clay Yarborough, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 5, 2026

I respectfully request that **Senate Bill #208**, relating to Land Use and Development Regulations, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Stan McClain".

Senator Stan McClain
Florida Senate, District 9

The Florida Senate

APPEARANCE RECORD

1/12/26

Meeting Date

Judiciary

Committee

Name Edward Briggs

Phone _____

Address _____
Street _____

Email _____

City _____ State _____ Zip _____

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Highland Homes

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) (flesenate.gov)

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S-001 (08/10/2021)

1/2/26

Meeting Date

Jud.

Committee

Name

Kevin Coyne

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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208

Bill Number or Topic

#378440

Amendment Barcode (if applicable)

Phone 805-827-5648

Address

Street

Email

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

FL Stormwater
Association

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://www.flsenate.gov/2020-2022JointRules.pdf) (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/12/25

Meeting Date

Judiciary
CommitteeName Courtney Mooney

Phone _____

Address 100 S Monroe
StreetEmail Cmooney@fl-counties.comCity Tallahassee FL State 32301Speaking: For Against Information **OR** Waive Speaking: In Support Against**PLEASE CHECK ONE OF THE FOLLOWING:** I am appearing without compensation or sponsorship. I am a registered lobbyist, representing:Florida Association
of Counties. I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://www.flsenate.gov/2020-2022JointRules.pdf) (flsenate.gov)

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S-001 (08/10/2021)

1-12-26

Meeting Date

Judiciary

Committee

Name Rebecca O'Hara

Phone 850 222 9684

Address PO Box 1757

Street

Email rohara@flcities.com

Tallahassee Fl 32302

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Fla. League of Cities

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

208

Bill Number or Topic

378440

Amendment Barcode (if applicable)

1/12/2026

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meetingMeeting Date
JudiciaryCommittee
Name **Elizabeth Alvi**Address **1008 Thomasville Road**
Street **Tallahassee** State **FL** Zip **32308**Phone **850-999-1028**Email **Beth.Alvi@audubon.org**Speaking: For Against Information**OR**Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

 I am appearing without compensation or sponsorship. I am a registered lobbyist, representing:**Audubon Florida** I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://www.leg.state.fl.us/2020-2022JointRules.pdf) (flsenate.gov)

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S-001 (08/10/2021)

1/12/26

Meeting Date
Judiciary

Committee
Name Anna Grace DePaolo

Address 119 S. Monroe Street, Suite 200
Street
City Tallahassee State FL Zip 32301

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 208

Bill Number or Topic
378440

Amendment Barcode (if applicable)
850-205-9000

Email agd@mhdfirm.com

Speaking: For Against Information

OR

Waive Speaking: In Support Against

I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

I am a registered lobbyist,
representing:

*Florida Chapter of the
American Planning Association*

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://flsenate.gov/2020-2022JointRules.pdf)

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S-001 (08/10/2021)

1/12/20

Meeting Date

Sen. Tuckey
Committee

Name

Chadwick Leonard

Phone

Address

308 N. Monroe

Street

Email

cleonard@1000friendsfl.org

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

1000 Friends of Florida

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://flesenate.gov/2020-2022JointRules.pdf) (flesenate.gov)

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S-001 (08/10/2021)

1/12/2026

The Florida Senate

APPEARANCE RECORD

208

Bill Number or Topic

Meeting Date

Judiciary

Committee

Name

Colton Madill

Address

136 S. Bronough St.

Street

Tallahassee, FL 32301

City

State

Zip

Amendment Barcode (if applicable)

Phone

(850) 766-7983

Email

cmaekill@flchamber.com

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Chamber of Commerce

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](https://flsenate.gov/2020-2022JointRules.pdf) (flsenate.gov)

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

S-001 (08/10/2021)

01-12-2026

The Florida Senate

APPEARANCE RECORD

208

Meeting Date

Judiciary

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Name

Ivonne Fernandez - AARP

Phone

954-850-7262

Address

215 S Monroe Street / Suite 603

Email

ifernandez@aarp.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://flsenate.gov/2020-2022JointRules.pdf)

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

S-001 (08/10/2021)

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 Committee on Judiciary

BILL: CS/SB 762

INTRODUCER: Judiciary Committee and Senator Martin

SUBJECT: Offices of Criminal Conflict and Civil Regional Counsel

DATE: January 13, 2026 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2. _____	_____	<u>ACJ</u>	_____
3. _____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 762 authorizes a court to appoint a different Office of Criminal Conflict and Civil Regional Counsel, in lieu of private counsel, to represent an indigent defendant in a death penalty case if certain conditions are met. Before this appointment may occur, the primary office must provide written notice to the court stating that: the client is indigent, the state has filed a notice that it intends to seek the death penalty, and legal representation may no longer be provided by the office due to a conflict of interest or a lack of qualified attorneys. The court is authorized to make the appointment if the designated counsel is qualified to provide competent representation in a death penalty case.

The office that is appointed to represent the defendant must submit documentation for all due process costs and services of representation to the Judicial Administrative Commission and file reports containing specified information relating to the case.

If another regional office is unable to accept an appointment because of a conflict of interest or a lack of qualified death penalty attorneys, private counsel must be appointed to represent the client.

The bill takes effect July 1, 2026.

II. Present Situation:

Overview

Under current law, if an indigent defendant in a death penalty case cannot be represented by a public defender due to a conflict of interest, the case is assigned to an Office of Criminal Conflict and Civil Regional Counsel in that same region. If that office is unable to accept the case, the case is assigned by the chief judge of the circuit to a private court-appointed attorney. The costs of representation by a private court-appointed attorney are significantly higher than the costs of representation by attorneys within the offices of the public defender or regional counsel.

The Office of Criminal Conflict and Civil Regional Counsel

The Legislature created the Office of Criminal Conflict and Civil Regional Counsel in 2007. When creating the office, the Legislature stated that its purpose was to provide representation for people entitled to court-appointed counsel “in a fiscally sound manner, while safeguarding constitutional principles.”¹ Five regional offices were established in the state based on the geographic boundaries established for the five District Courts of Appeal that existed at that time.²

The Office primarily represents indigent people³ who are charged with crimes that public defenders are not able to represent because of a legal conflict of interest among the clients.⁴ A conflict of interest occurs when two or more defendants are being represented by one office and the interest of one defendant is adverse or hostile to the interest of another defendant such that the office cannot, in good faith, represent both defendants.⁵

Each of the five district offices is led by a regional counsel who is appointed to a 4-year term. The regional counsel is chosen by the Governor from a list of names submitted by the Supreme Court Nominating Commission and is subject to Senate confirmation.⁶

For administrative purposes, each office is assigned to the Justice Administrative Commission. The Commission is charged with providing administrative support and service as requested by each office, within the Commission’s available resources.⁷

If a public defender’s office and a regional counsel’s office cannot represent an indigent client due to a conflict of interest, the chief judge of the circuit will appoint an attorney in private practice from a registry of qualified attorneys.⁸

¹ Section 27.511(1), F.S.

² Ch. 2007-62, s. 1, Laws of Fla. and s. 27.511(1), F.S. A sixth regional office has not been created although a Sixth District Court of Appeals was created in 2022. See ch. 2022-163, s. 2, 8, and 9, Laws of Fla.

³ To determine whether a person is “indigent” to qualify for the appointment of a public defender, he or she must fill out an application with the clerk of court and meet the criteria set forth in s. 27.52, F.S.

⁴ Section 27.511(5) and (6)(a), F.S.

⁵ See s. 27.511(5), F.S.

⁶ Section 27.511(3)(a), F.S.

⁷ Section 27.511(2), F.S.

⁸ Sections 27.40(1), (2), and (3), and 27.5303(1), F.S.

The Justice Administrative Commission

The Justice Administrative Commission (JAC) is a state agency that was created in 1965 to provide administrative services for judicial-related offices. Currently, the JAC provides administrative services to all state attorney and public defender offices, each Office of Criminal Conflict and Civil Regional Counsel, the Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Office. The JAC primarily provides accounting, budgeting, financial, and human resource services to these entities. In addition, the JAC reviews the billing records of private attorneys who are appointed by the court to represent indigent clients.⁹

Cost Data for Court-Appointed Attorneys in Capital First Degree Murder Cases

According to payment data supplied by the JAC, the total amount of funds expended over the last 6 years for private court-appointed counsel in these cases is \$49,315,531.89.¹⁰ The chart below shows the annual due process costs¹¹ and attorney fees.

Fiscal Year	Due Process	Attorney Fees	Annual Total
2019-20	\$4,059,331.44	\$7,876,301.53	\$11,935,632.97
2020-21	\$2,189,866.79	\$3,629,874.60	\$5,819,741.39
2021-22	\$2,481,876.64	\$3,897,727.77	\$6,379,604.41
2022-23	\$3,192,762.32	\$4,815,264.00	\$8,008,026.32
2023-24	\$3,354,407.70	\$6,355,549.85	\$9,709,957.55
2024-25	\$3,137,753.35	\$4,324,815.90	\$7,462,569.25
Totals	\$18,415,998.24	\$30,899,533.65	\$49,315,531.89

Minimum Standards for an Attorney to Defend a Death Penalty Case

To ensure that a defendant has competent representation in a death penalty case, The Florida Supreme Court has established minimum standards that an attorney must meet. Each judicial circuit must keep a list of qualified conflict counsel in each of three categories: lead trial counsel, trial co-counsel, and appellate counsel.¹²

To qualify as lead trial counsel, the attorney must have at least 5 years of litigation experience in criminal law and have served as lead counsel in no fewer than nine state or federal jury trials of serious and complex cases which were tried to completion. He or she must have served as lead defense counsel or co-counsel in at least two state or federal death penalty cases that were tried to completion. Additionally, of the nine jury trials that were tried to completion, the attorney

⁹ See Justice Administrative Commission at <https://www.justiceadmin.org/>.

¹⁰ Email from Cris Martinez, General Counsel for the Justice Administrative Commission (Jan. 8, 2025) (on file with the Judiciary Committee). These figures also include cases where the death penalty had not been waived by the time the court-appointed attorney was appointed.

¹¹ Due process costs for indigent clients include the costs for: court reporting and transcription; copying and transcribing depositions; foreign language interpreters and translators, if needed; witnesses and expert witnesses; mental health professionals; reasonable transportation services; some travel expenses; library and electronic legal research services; and reasonable pretrial consultant fees and costs. See s. 29.006, F.S.

¹² Fla. R. Crim. P. 3.112, https://www-media.floridabar.org/uploads/2025/11/2026_05-NOV-Criminal-Procedure-Rules-11-26-2025.pdf.

must have served as lead counsel in at least three cases in which the charge was murder, or alternatively, of the nine jury trials, at least one was a murder trial, and an additional five were felony jury trials. Additional requirements, including continuing legal requirements, for private attorneys in capital cases are set forth in Rule 3.112 of the Florida Rules of Criminal Procedure.¹³

III. Effect of Proposed Changes:

The bill authorizes a court to appoint a different Office of Criminal Conflict and Civil Regional Counsel, in lieu of private counsel, to represent an indigent defendant in a death penalty case once certain conditions are met. This appointment may occur at any time during representation after the office provides written notice to the court that:

- The defendant is indigent;
- The state has filed a notice of intent to seek the death penalty; and
- Legal counsel in the first regional office has determined it can no longer represent the person because of a conflict of interest or a lack of qualifications.

The court is authorized to make the appointment provided that the designated counsel is qualified to provide competent representation in a death penalty case.

For clarification, this process does not transfer venue of the case from one circuit to another. Rather, it simply authorizes a different Office of Criminal Conflict and Civil Regional Counsel to handle the case. Additionally, this process is permissive in that it does not require a regional office to accept the appointment of additional death penalty cases.

Reporting Requirements

The regional office that is appointed to represent a defendant who was previously represented by another regional office must document all due process costs and services for representation to the JAC to receive reimbursement. Payment is subject to legislative appropriation.

By February 1 and August 1 of each year, the regional office that accepts an appointment to represent an indigent person in which the state has filed a notice that it intends to seek the death penalty must submit a report to the JAC that includes the following:

- The names of the regional office and the counsel appointed with the date of the appointment.
- The amount of time the case has been pending.
- The date the state filed a notice of intent to seek the death penalty.
- The number of victims in the case.
- The status of ongoing discovery, if any, including any discovery deadline set by the court.
- The number of outstanding motions.
- Whether the case involves a mitigation specialist and if so, the date of his or her employment and any mitigation work product.

¹³ *Id.*

When Another Regional Office Cannot Accept an Appointment

If the office from another region cannot accept an appointment to represent the defendant due to a conflict of interest or due to a lack of qualified attorneys, private counsel must then be appointed. The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If a court appoints another regional office to represent a client, this eliminates the need for a private court-appointed attorney to handle the case. As such, the number of private attorneys receiving fees from these cases would be reduced as would their income from these cases.

Currently, the Legislature authorizes a flat fee of \$25,000 for the lead counsel and \$25,000 for the co-counsel in first degree murder cases.¹⁴ The lead counsel and co-counsel may petition the court for an award of extraordinary fees in an evidentiary hearing. Because of the complexity and duration of indigent death-penalty cases, the

¹⁴ Ch. 2025-198, s.148, Laws of Fla. and Justice Administrative Commission, Forms and Rates, July 1, 2024 through June 30, 2026, available at [https://www.justiceadmin.org/court_app_counsel/CAC%20Flat%20Fee%20Rates%20\(7%201%2025\)Updated070825.pdf](https://www.justiceadmin.org/court_app_counsel/CAC%20Flat%20Fee%20Rates%20(7%201%2025)Updated070825.pdf).

request for extraordinary fees is generally granted and the total fees paid are much higher than the flat fee.

C. Government Sector Impact:

In many cases, the amount expended by a regional office will be significantly less than the cost of representation by private court-appointed counsel.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 27.511 and 744.331.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on January 12, 2026:

The committee substitute differs from the underlying bill by deleting the requirement that the JAC submit reports to the Legislature and by deleting the program's expiration date of July 1, 2027. The language authorizing the appointment of counsel in another region, paragraph (6)(a), is edited for clarity and the committee substitute replaces the reference to the chief judge with references to the court.

B. Amendments:

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2026	.	
	.	
	.	
	.	

The Committee on Judiciary (Martin) recommended the following:

1 **Senate Amendment (with title amendment)**

2
3 Delete everything after the enacting clause
4 and insert:

5 Section 1. Present subsections (6) through (10) of section
6 27.511, Florida Statutes, are redesignated as subsections (7)
7 through (11), respectively, and a new subsection (6) is added to
8 that section, to read:

9 27.511 Offices of criminal conflict and civil regional
10 counsel; legislative intent; qualifications; appointment;
11 duties.—



250350

12 (6) (a) At any time that an office of criminal conflict and
13 civil regional counsel determines that it can no longer
14 represent an indigent defendant in a death penalty case due to a
15 conflict of interest or a lack of qualifications, it must
16 provide written notice to the court. The written notice must
17 state that the person has been determined to be indigent under
18 s. 27.52, that the state has filed a notice of intent to seek
19 the death penalty, and that it can no longer provide
20 representation due to a conflict of interest or a lack of
21 qualifications. Upon receiving the notice, the court is
22 authorized to appoint an office of criminal conflict and civil
23 regional counsel from another region to represent the defendant
24 provided that their designated counsel is qualified to provide
25 competent representation in death penalty cases. These
26 provisions are effective notwithstanding ss. 27.40 and 27.5305,
27 which authorize the appointment of a private attorney to
28 represent the defendant.

29 (b) Subject to legislative appropriation, the office of
30 criminal conflict and civil regional counsel appointed from
31 another region under paragraph (a) shall provide documentation
32 for all due process costs and services of representation to the
33 Justice Administrative Commission for reimbursement.

34 (c) Biannually, by February 1 and August 1, each regional
35 office of the office of criminal conflict and civil regional
36 counsel that accepts an appointment under paragraph (a), in a
37 case involving a person determined to be indigent under s. 27.52
38 in which the state has filed a notice of intent to seek the
39 death penalty, shall submit a report to the Justice
40 Administrative Commission. For each case, the report must



41 contain all of the following information:

42 1. The office of criminal conflict and civil regional

43 counsel appointed and the date of appointment, including the

44 name of counsel assigned.

45 2. The length of time the capital case has been pending.

46 3. The date the state filed a notice of intent to seek the

47 death penalty.

48 4. The number of victims.

49 5. The status of any ongoing discovery, including any

50 discovery deadline set by the court.

51 6. The number of outstanding motions.

52 7. Whether there is a mitigation specialist, and, if so,

53 the date of his or her employment, as well as any mitigation

54 work product.

55 (d) If the office of criminal conflict and civil regional

56 counsel from another region cannot accept an appointment under

57 paragraph (a) because of a conflict of interest or a lack of

58 qualified attorneys, private counsel must be appointed.

59 Section 2. Paragraph (a) of subsection (2) of section

60 744.331, Florida Statutes, is amended to read:

61 744.331 Procedures to determine incapacity.—

62 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.—

63 (a) When a court appoints an attorney for an alleged

64 incapacitated person, the court must appoint the office of

65 criminal conflict and civil regional counsel or a private

66 attorney as prescribed in s. 27.511(7) ~~s. 27.511(6)~~. A private

67 attorney must be one who is included in the attorney registry

68 compiled pursuant to s. 27.40. Appointments of private attorneys

69 must be made on a rotating basis, taking into consideration



70 conflicts arising under this chapter.

71 Section 3. This act shall take effect July 1, 2026.

72

73 ===== T I T L E A M E N D M E N T =====

74 And the title is amended as follows:

75 Delete everything before the enacting clause
76 and insert:

77 A bill to be entitled

78 An act relating to offices of criminal conflict and
79 civil regional counsel; amending s. 27.511, F.S.;
80 authorizing appointments from the office of criminal
81 conflict and civil regional counsel in other regions
82 for certain cases in certain circumstances; requiring
83 such counsel to provide certain documentation to the
84 Justice Administrative Commission for reimbursement;
85 requiring each regional office that accepts such
86 appointments to annually submit a specified report to
87 the commission; requiring the appointment of private
88 counsel in certain circumstances; amending s. 744.331,
89 F.S.; conforming a cross-reference; providing an
90 effective date.

By Senator Martin

33-00758-26

2026762

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

20 Section 1. Present subsections (6) through (10) of section
21 27.511, Florida Statutes, are redesignated as subsections (7)
22 through (11), respectively, and a new subsection (6) is added to
23 that section, to read:

27.511 Offices of criminal conflict and civil regional
counsel; legislative intent; qualifications; appointment;
duties -

(6) (a) Notwithstanding ss. 27.40 and 27.5305, if the office of criminal conflict and civil regional counsel, at any time during representation of a person determined to be indigent

Page 1 of 3

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

33-00758-26

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30 under s. 27.52 in a case in which the state has filed a notice
31 of intent to seek the death penalty, determines that counsel can
32 no longer be provided because of a conflict of interest or a
33 lack of qualifications, the office of criminal conflict and
34 civil regional counsel from another region may be appointed,
35 provided such counsel is qualified to provide competent
36 representation in death penalty cases, at the discretion of the
37 chief judge of the circuit in which the case is being
38 prosecuted.

(b) Subject to legislative appropriation, the office of criminal conflict and civil regional counsel appointed from another region under paragraph (a) shall provide documentation for all due process costs and services of representation to the Justice Administrative Commission for reimbursement.

52 a. The office of criminal conflict and civil regional
53 counsel appointed and the date of appointment, including the
54 name of counsel assigned.

55 b. The length of time the capital case has been pending.
56 c. The date the state filed a notice of intent to seek the
57 death penalty.
58 d. The number of victims.

Page 2 of 3

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

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59 e. The status of any ongoing discovery, including any
60 discovery deadline set by the court.
61 f. The number of outstanding motions.
62 g. Whether there is a mitigation specialist, and, if so,
63 the date of his or her employment, as well as any mitigation
64 work product.
65 2. The Justice Administrative Commission shall submit
66 copies of the reports provided by each regional office under
67 subparagraph 1. to the President of the Senate and the Speaker
68 of the House of Representatives.
69 (d) If the office of criminal conflict and civil regional
70 counsel from another region cannot accept an appointment under
71 paragraph (a) because of a conflict of interest or a lack of
72 qualified attorneys, private counsel must be appointed.
73 (e) This subsection expires July 1, 2027.
74 Section 2. Paragraph (a) of subsection (2) of section
75 744.331, Florida Statutes, is amended to read:
76 744.331 Procedures to determine incapacity.—
77 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.—
78 (a) When a court appoints an attorney for an alleged
79 incapacitated person, the court must appoint the office of
80 criminal conflict and civil regional counsel or a private
81 attorney as prescribed in s. 27.511(7) s. 27.511(6). A private
82 attorney must be one who is included in the attorney registry
83 compiled pursuant to s. 27.40. Appointments of private attorneys
84 must be made on a rotating basis, taking into consideration
85 conflicts arising under this chapter.
86 Section 3. This act shall take effect July 1, 2026.

Dear Ms. Davis,

Per our recent conversation, you requested:

“Expenditure data for Court-Appointed Capital First-Degree Murder cases processed by the Justice Administrative Commission (JAC) for the last three fiscal years.”

Below are total expenditures for Court-Appointed Capital First-Degree Murder cases, from July 1, 2019, through June 30, 2025. The totals below are based on payments made for state-funded expenditures in court-appointed Capital First-Degree Murder cases where the death penalty had not been waived at the time of the court-appointed attorney’s appointment. Please know that these totals do NOT include: (1) expenditures for Indigent for Costs (IFC) and Pro Se cases; or (2) expenditures processed for other case descriptions such as Capital First Degree Murder – Death Penalty Waived or Felony Noncapital Murder. Also, the totals below include statutory penalties for late submission of invoices. As described, total payments for Court-Appointed Capital First-Degree Murder cases (July 1, 2019, through June 30, 2025) by fiscal year are:

Fiscal Year	Due Process	Attorney Fees	Annual Total
2019-20	\$4,059,331.44	\$7,876,301.53	\$11,935,632.97
2020-21	\$2,189,866.79	\$3,629,874.60	\$5,819,741.39
2021-22	\$2,481,876.64	\$3,897,727.77	\$6,379,604.41
2022-23	\$3,192,762.32	\$4,815,264.00	\$8,008,026.32
2023-24	\$3,354,407.70	\$6,355,549.85	\$9,709,957.55
2024-25	\$3,137,753.35	\$4,324,815.90	\$7,462,569.25
Totals	\$18,415,998.24	\$30,899,533.65	\$49,315,531.89

If you have any question or desire additional information, please let me know.

Sincerely,

Cris Martinez
General Counsel

Justice Administrative Commission
227 N. Bronough Street, Suite 2100
Tallahassee, Florida 32301
Phone: (850) 488-2415 ext. 335
Website: www.justiceadmin.org



Please note: All email is potentially available as a public record. This email or any attachments provided may contain confidential information intended for the use of the designated recipients named above. Any inadvertent release of confidential or exempt information must be communicated to JAC immediately. If you are not the intended recipient and have received this email in error, please notify the sender immediately by returning the email and deleting the message and be aware that any review, dissemination, distribution or copying of this communication is strictly prohibited.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations Committee on Criminal and Civil
Justice, *Vice Chair*
Appropriations
Appropriations Committee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Rules
Transportation

SENATOR JONATHAN MARTIN

33rd District

December 23, 2025

Chair Clay Yarborough
Committee on Judiciary
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 762: Offices of Criminal Conflict and Civil Regional Counsel

Dear Chair Yarborough,

Please allow this letter to serve as my respectful request to place SB 762 Offices of Criminal Conflict and Civil Regional Counsel on the next committee agenda.

SB 762 Offices of Criminal Conflict and Civil Regional Counsel authorizes appointments from the office of criminal conflict and civil regional counsel in other regions for certain cases in certain circumstances; requiring such counsel to provide certain documentation to the Justice Administrative Commission for reimbursement; requiring each regional office that accepts such appointments to annually submit a specified report to the commission; requiring the commission to submit copies of such reports to the Legislature.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Jonathan Martin
Senate District 33

REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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Appropriations Committee on Higher Education
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Tourism, and Economic Development
Community Affairs
Fiscal Policy
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM LEEK

7th District

January 8th, 2026

The Honorable Clay Yarborough
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Honorable Chair Yarborough:

Please excuse my absence from Committee on Judiciary scheduled for Monday, January 12th, 2026.

Thank you for understanding, if you have any questions, please feel free to contact me.

Sincerely,

A blue ink signature of "Tom Leek" with a blue line through it.

Sen. Tom Leek
Florida Senator, District 7

REPLY TO:

- 4475 US 1 South, Suite 404, St. Augustine, Florida 32086 (386) 446-7610
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 1/12/2026 4:01:27 PM

Ends: 1/12/2026 4:24:44 PM Length: 00:23:18

4:01:33 PM Vice Chair Burton calls meeting to order

4:01:35 PM Roll call

4:02:20 PM Tab 5: SB 762

4:02:20 PM Vice Chair Burton gives introductory announcements

4:02:40 PM Vice Chair recognizes Sen Martin to explain am. 250350

4:02:45 PM Sen Martin

4:03:13 PM Vice Chair Burton

4:03:38 PM Questions:

4:03:45 PM Sen Berman

4:03:57 PM Sen Martin

4:03:59 PM Sen Berman

4:04:08 PM Sen Martin

4:04:57 PM Sen Berman

4:05:13 PM Sen Martin

4:05:37 PM Sen Berman

4:06:01 PM Sen Martin

4:07:24 PM Appearance Cards:

4:07:29 PM Ita Neymotin, Office of Criminal Conflict and Civil Re Counsel, Second Region

4:10:01 PM Vice Chair Burton recognizes Sen Martin to close on the bill

4:10:10 PM Sen Martin

4:10:24 PM Roll call

4:10:52 PM Vice Chair Burton reports on CS/SB 762

4:11:03 PM Tab 2: SB 16

4:11:10 PM Chair Yarborough recognizes Sen Rouson to explain the bill

4:11:15 PM Sen Rouson

4:13:26 PM Chair Yarborough

4:13:32 PM Appearance Cards:

4:13:40 PM Dan Faherty, Esq.

4:14:40 PM Chair Yarborough

4:14:48 PM Debate:

4:14:50 PM Sen Gaetz

4:16:14 PM Chair Yarborough

4:16:17 PM Roll call

4:16:42 PM Chair Yarborough reports on SB 16

4:16:50 PM Tab 1: SB 14

4:16:55 PM Chair Yarborough recognizes Sen Rodriguez to explain the bill

4:17:01 PM Sen Rodriguez

4:17:41 PM Chair Yarborough

4:17:47 PM Chair Yarborough acknowledges waives speaking

4:17:55 PM Chair Yarborough

4:18:00 PM Roll call

4:18:20 PM Chair Yarborough reports on SB 14

4:18:30 PM Tab 3: SB 24
4:18:46 PM Chair Yarborough recognizes Sen Rodriguez to explain the bill
4:18:50 PM Sen Rodriguez
4:19:05 PM Chair Yarborough
4:19:17 PM Roll call
4:19:40 PM Chair Yarborough reports on SB 24
4:19:46 PM Tab 4: SB 208
4:20:08 PM Chair Yarborough recognizes Sen McClain to explain am. 378440
4:20:13 PM Sen McClain
4:21:00 PM Chair Yarborough
4:21:15 PM Appearance Cards:
4:21:39 PM Chair Yarborough acknowledges waives speaking
4:21:55 PM Chadwich Leonard, 1000 Friends of Florida
4:22:33 PM Chair Yarborough
4:22:39 PM Chair Yarborough recognizes Sen McClain to close on the am.
4:22:42 PM Sen McClain
4:23:03 PM Chair Yarborough
4:23:21 PM Chair Yarborough acknowledges waives speaking
4:23:27 PM Chair Yarborough
4:23:40 PM Roll call
4:24:05 PM Chair reports on CS/SB 208
4:24:09 PM Chair Yarborough
4:24:15 PM Sen. DiCeglie motions to record vote for CS/SB 762
4:24:32 PM Chair Yarborough
4:24:36 PM Adjournment