

By Senator Turner

36-94-98

1 A bill to be entitled
2 An act relating to the Dade County School
3 Board; providing for the relief of Lazaro
4 Gutierrez; providing for an appropriation to
5 compensate him for injuries and damages
6 sustained as a result of the negligence of the
7 Dade County School Board; providing an
8 effective date.

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10 WHEREAS, on October 21, 1988, Lazaro Gutierrez went
11 upon the property of Miami Southridge High School to pick up
12 his girlfriend, Laurie Brush, who was returning from her
13 duties as a cheerleader for the Miami Southridge High School
14 football team, and

15 WHEREAS, while Lazaro Gutierrez waited in the school's
16 student parking lot for his girlfriend's return, he was
17 approached by two men who engaged him in conversation, and

18 WHEREAS, following this conversation, a Miami
19 Southridge High School student witnessed the men who
20 approached Lazaro Gutierrez inside the Miami Southridge High
21 School student parking lot carrying a gun and displaying the
22 gun to others in the parking lot, and also noticed that there
23 was no security guard or police officer on the premises at
24 that time, and

25 WHEREAS, upon the return of Laurie Brush, Lazaro
26 Gutierrez and Laurie Brush attempted to leave the school
27 premises in Lazaro Gutierrez's car, and

28 WHEREAS, as Lazaro Gutierrez attempted to exit the high
29 school's student parking lot, but while he was still on school
30 property, one of the men who had previously engaged him in
31 conversation in the student parking lot called out to him, and

1 WHEREAS, when Lazaro Gutierrez stopped his car, one of
2 the men who had previously engaged Lazaro Gutierrez in
3 conversation pointed a gun at Lazaro Gutierrez and demanded
4 that he exit his car, and

5 WHEREAS, Lazaro Gutierrez attempted to flee in order to
6 protect himself and his girlfriend, and

7 WHEREAS, as he was attempting to flee his assailant,
8 Lazaro Gutierrez was shot in the neck, and

9 WHEREAS, the bullet which wounded Lazaro Gutierrez
10 fractured Lazaro Gutierrez's C-4 vertebra and partially
11 severed his spinal cord, rendering him a C-4 quadriplegic, and

12 WHEREAS, at the time they called out to Lazaro
13 Gutierrez, the assailants were standing on the property of
14 Miami Southridge High School, just outside the gate to the
15 student parking lot, and

16 WHEREAS, following extensive litigation and pretrial
17 proceedings, a jury trial was commenced on January 8, 1996,
18 and

19 WHEREAS, though Miami Southridge High School is located
20 in a high-crime area and had experienced numerous incidents of
21 crime prior to the shooting of Lazaro Gutierrez, by the
22 admission of the Dade County School Board there was no
23 security guard in the parking lot at the time of the shooting,
24 despite the administration's request that a security guard or
25 police officer be present in the parking lot until all
26 students had left the premises, and

27 WHEREAS, it was the opinion of the plaintiff's security
28 expert that the incident which resulted in the shooting of
29 Lazaro Gutierrez was foreseeable by the Dade County School
30 Board, and that it was likely that the assault against Lazaro
31 Gutierrez would have been deterred had a security guard or an

1 off-duty policeman remained on the premises, as requested by
2 the school's administration, and

3 WHEREAS, a verdict was returned in favor of Lazaro
4 Gutierrez in the amount of \$12,000,000 and in favor of Lazaro
5 Gutierrez's mother, Teresa Chirino, in the amount of \$200,000,
6 and

7 WHEREAS, upon apportionment of negligence, the jury
8 found the Dade County School Board's percentage of fault to be
9 85 percent and the assailants' percentage of fault to be 15
10 percent, and

11 WHEREAS, based upon the jury's allocation of fault, the
12 court entered a judgment for Lazaro Gutierrez and his mother,
13 Teresa Chirino, and against the Dade County School Board in
14 the amount of \$10,970,000, and

15 WHEREAS, the Dade County School Board appealed the
16 verdict, and

17 WHEREAS, while the appeal was pending, the parties
18 jointly agreed to settle the case for \$3,173,246 and the Dade
19 County School Board dismissed its appeal, and

20 WHEREAS, the Dade County School Board has paid Lazaro
21 Gutierrez \$200,000 pursuant to the statutory limits of
22 liability set forth in s. 768.28, Florida Statutes, and

23 WHEREAS, the Dade County School Board supports the
24 passage of a claim bill for Lazaro Gutierrez in the amount of
25 \$2,973,246, which represents the remainder of the settlement,
26 NOW, THEREFORE,

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

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

1 Section 2. The Dade County School Board is authorized
2 and directed to appropriate from funds of the school board not
3 otherwise appropriated and to draw a warrant in the sum of
4 \$2,973,246 payable to Lazaro Gutierrez as compensation for
5 injuries and damages sustained as a result of the negligence
6 of the Dade County School Board.

7 Section 3. This act shall take effect upon becoming a
8 law.

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