

## CHAPTER 2016-266

### Committee Substitute for House Bill No. 3509

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

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

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

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

WHEREAS, Officer Somarriba did not activate the emergency siren and, while traveling significantly over the speed limit, crashed into the driver's side of the Jeep Compass driven by Marco Barrios while it was crossing the eastbound lanes of E 49th Street, and

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

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

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

WHEREAS, at the conclusion of the traffic homicide investigation into the death of Andrea Castillo and a companion investigation by the state attorney, the Hialeah Police Department and other investigating agencies concluded that Marco Barrios duly observed the stop sign at the intersection

of E 49th Street and E 9th Court and that Officer Somarriba's speed was a contributing factor to the fatal crash, and

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

WHEREAS, the Hialeah Police Department failed to seek or request preservation of Officer Somarriba's blood samples within the 6-day preservation period protocol observed by Ryder Trauma Center for the retention of such samples, thereby losing the opportunity to test Officer Somarriba for intoxicants, and

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

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

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

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

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

WHEREAS, following litigation and mediation of their disputes, the parties to such actions on June 9, 2015, entered into a settlement agreement, which agreement was approved by the Hialeah City Council, and

WHEREAS, the terms of the settlement agreement required the claimants, Marco Barrios and the Estate of Andrea Castillo, to dismiss their cases with prejudice and provide a full release of liability to the City of Hialeah and its employees, which the claimants have done, in exchange for

payments by the City of Hialeah totaling \$750,000, inclusive of all claimants, and

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

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

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

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

Section 2. The City of Hialeah is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw warrants totaling the amount of \$455,000, payable to the law firm of Silva & Silva, P.A., Trust Account for the benefit of Susana Castillo, as personal representative of the Estate of Andrea Nicole Castillo, as compensation for injuries and damages sustained as a result of the death of Andrea Castillo. The amount of \$150,000 shall be paid on May 1, 2016, the amount of \$150,000 shall be paid on May 1, 2017, and the final payment amount of \$155,000 shall be paid on May 1, 2018.

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

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

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

Approved by the Governor March 25, 2016.

Filed in Office Secretary of State March 25, 2016.