

CHAPTER 2017-229

Committee Substitute for House Bill No. 6545

An act for the relief of Jerry Cunningham by Broward County; providing for an appropriation to compensate him for injuries sustained as a result of the negligence of Broward County; providing that the appropriation settles all present and future claims related to the negligent act; providing a limitation on the payment of compensation, fees, and costs; providing an effective date.

WHEREAS, on May 10, 2013, Jerry Cunningham and his mother walked from their home to a bus stop for Broward County Transit on Sample Road in Pompano Beach, where Jerry was to board the bus to take him to school, and

WHEREAS, Jerry Cunningham presented himself at the threshold of the bus and was attempting to board the bus with its door still open when the bus driver proceeded to close the door on Jerry's arm, and

WHEREAS, the bus driver began to leave the bus stop even though passengers allegedly alerted the driver to Jerry Cunningham's presence and even though two other passengers who had just boarded had not yet crossed the standee line to find a seat, which was in direct violation of state requirements and a policy issued in a Broward County Transit memorandum in March 2013, and

WHEREAS, as the bus continued to pull away, Jerry Cunningham attempted to run alongside the bus with his arm caught in the doors until he eventually fell to the pavement, unable to keep up with the bus's speed, and

WHEREAS, after the accident, Jerry Cunningham was immediately transported to Broward Health North and was subsequently airlifted to the pediatric intensive care unit at Broward Health Medical Center, and

WHEREAS, on June 13, 2013, Jerry Cunningham was transferred to Jackson Memorial Hospital's family-centered pediatric rehabilitation program in order to receive intensive occupational, physical, speech, and neuropsychological therapy, and

WHEREAS, as a result of the accident, Jerry Cunningham suffered traumatic brain injury, multiple skull fractures, multiple facial fractures, multiple rib fractures, a right clavicle fracture, a right scapular fracture, a right pulmonary contusion, and a left medial malleolus fracture and was placed in a medically induced coma for approximately 1 month, and

WHEREAS, Jerry Cunningham continues to be impacted by the accident through his diagnoses of neurocognitive disorder, adjustment disorder with depression, central auditory processing disorder, neuropsychological

impairment in processing speed and memory, motor dexterity impairment, and various physical limitations, and

WHEREAS, the bus driver owed a duty of care to Jerry Cunningham, and Broward County is vicariously liable for the negligence of the bus driver, who was acting within the normal scope of his employment, and

WHEREAS, Jerry Cunningham and his parents, Lilliam and Gerrard Cunningham, have agreed to a settlement with Broward County in the sum of \$850,000, and Broward County has agreed to pay \$300,000 of the settlement pursuant to the statutory limits of liability set forth in s. 768.28, Florida Statutes, leaving a remaining balance of \$550,000, 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. Broward County is authorized and directed to appropriate from funds not otherwise encumbered and to draw a warrant in the sum of \$550,000, to be placed in the special needs trust created for the exclusive use and benefit of Jerry Cunningham as compensation for injuries and damages sustained.

Section 3. The amount paid by Broward County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injuries and damages to Jerry Cunningham. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed \$104,500, the total amount paid for lobbying fees may not exceed \$33,000, and no amount may be paid for costs and other similar expenses relating to this claim.

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

Approved by the Governor June 2, 2017.

Filed in Office Secretary of State June 2, 2017.