

By Senator Rodriguez

37-00064-18

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1 A bill to be entitled

2 An act for the relief of Cristina Alvarez and George
3 Patnode; providing appropriations to compensate them
4 for the death of their son, Nicholas Patnode, a minor,
5 due to the negligence of the Department of Health;
6 providing for the repayment of Medicaid liens;
7 providing a limitation on the payment of attorney
8 fees; providing an effective date.

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10 WHEREAS, on January 8, 1998, Nicholas Patnode, 5 months of
11 age, was seen for a fever at the Martin County Health Department
12 - Indiantown Clinic, and

13 WHEREAS, a blood test was ordered, the results of which
14 were abnormal and consistent with bacteremia, a condition that
15 requires immediate administration of antibiotics, and

16 WHEREAS, the results of the blood test were printed that
17 day but not picked up from the printer at the clinic, and as a
18 result, treatment was not begun and Nicholas Patnode's condition
19 deteriorated, and

20 WHEREAS, several hours later, Nicholas Patnode's parents
21 took him to Martin Memorial Medical Center, where a spinal tap
22 confirmed a diagnosis of bacterial meningitis, and Nicholas
23 Patnode was transferred to St. Mary's Hospital in critical
24 condition, and

25 WHEREAS, a decision was made to discontinue life support
26 due to irreversible brain damage, and Nicholas Patnode died on
27 January 10, 1998, and

28 WHEREAS, Nicholas Patnode is survived by his parents,
29 Cristina Alvarez and George Patnode, and

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30 WHEREAS, the actions of the Martin County Health Department
31 demonstrated the failure to adhere to a reasonable level of care
32 for Nicholas Patnode and resulted in his death, and

33 WHEREAS, after an unsuccessful attempt by Nicholas
34 Patnode's parents to settle this claim, it proceeded to
35 litigation, resulting in a judgment in favor of the parents in
36 the amount of \$2.6 million, and

37 WHEREAS, the Department of Health has paid \$200,000 to
38 Cristina Alvarez and George Patnode under the statutory limits
39 of liability set forth in s. 768.28, Florida Statutes, NOW,
40 THEREFORE,

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

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

46 Section 2. The sum of \$1.5 million is appropriated from the
47 General Revenue Fund to the Department of Health for the relief
48 of Cristina Alvarez as compensation for the death of her son,
49 Nicholas Patnode, a minor, due to the negligence of the Martin
50 County Health Department.

51 Section 3. The Chief Financial Officer is directed to draw
52 a warrant in favor of Cristina Alvarez in the sum of \$1.5
53 million upon funds of the Department of Health in the State
54 Treasury, and the Chief Financial Officer is directed to pay the
55 same out of such funds in the State Treasury.

56 Section 4. The sum of \$900,000 is appropriated from the
57 General Revenue Fund to the Department of Health for the relief
58 of George Patnode as compensation for the death of his son,

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59 Nicholas Patnode, a minor, due to the negligence of the Martin
60 County Health Department.

61 Section 5. The Chief Financial Officer is directed to draw
62 a warrant in favor of George Patnode in the sum of \$900,000 upon
63 funds of the Department of Health in the State Treasury, and the
64 Chief Financial Officer is directed to pay the same out of such
65 funds in the State Treasury.

66 Section 6. The governmental entity responsible for payment
67 of the warrants shall pay to the Agency for Health Care
68 Administration the amount due under s. 409.910, Florida
69 Statutes, before disbursing any funds to the claimants. The
70 amount due to the agency shall be equal to all unreimbursed
71 medical payments paid by Medicaid up to the date on which this
72 act becomes a law. Such amounts shall be deducted in equal
73 amounts from the award to each parent.

74 Section 7. The amount paid by the Department of Health
75 pursuant to s. 768.28, Florida Statutes, and the amounts awarded
76 under this act are intended to provide the sole compensation for
77 all present and future claims arising out of the factual
78 situation described in this act which resulted in the death of
79 Nicholas Patnode. The total amount paid for attorney fees
80 relating to this claim may not exceed 25 percent of the total
81 amount awarded under this act.

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