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1 A bill to be entitled
2 An act for the relief of Katherine Selva, a minor, by and
3 through Maria Alcobar, as parent and natural guardian of
4 Katherine Selva, by the City of Miami; providing for an
5 appropriation to compensate her for injuries sustained as
6 a result of the negligence of the City of Miami; providing
7 an effective date.

8
9 WHEREAS, on October 19, 1999, Katherine Selva, then 4 years
10 of age, was living with her mother and father, Maria Alcobar and
11 Aldo Selva, who were married at that time, sharing the surname
12 Selva, and living together with their two children, Katherine
13 Selva and her younger sister, Karenlyn Selva, and

14 WHEREAS, in the early morning hours of October 19, 1999,
15 Katherine Selva began having seizure activity, and

16 WHEREAS, prior to October 19, 1999, Katherine Selva had
17 been diagnosed with a seizure disorder from infancy which
18 occurred following a DPT immunization at approximately 2 months
19 of age, and

20 WHEREAS, Katherine Selva had multiple epileptic episodes
21 that required several hospitalizations; however, through the
22 administration of appropriate medication, Katherine's condition
23 was controlled and she was able to live an active life, and

24 WHEREAS, Katherine Selva had been attending prekindergarten
25 and, according to physicians and therapists, was only mildly
26 delayed as a result of her seizure disorder, and

27 WHEREAS, after Katherine Selva started seizing on October
28 19, 1999, her parents called 911 for paramedic assistance, and

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29 WHEREAS, a rescue vehicle initially reported to the Selva
30 residence at approximately 1:28 a.m. and found Katherine Selva
31 having active seizures, and

32 WHEREAS, two agents of the City of Miami, fire rescue
33 personnel Ernesto Vila and Gustavo Busse, arrived and advised
34 that they found Katherine Selva actively seizing on a bed, and

35 WHEREAS, the two fire rescue personnel administered 2
36 milligrams of Valium and requested a second purportedly better-
37 equipped vehicle to transport Katherine Selva to Jackson
38 Memorial Hospital at approximately 1:30 a.m., and

39 WHEREAS, Rescue Ten, which included paramedic Henry
40 Rodriguez and one to three others, subsequently arrived at
41 approximately 1:43 a.m., and

42 WHEREAS, reports and testimony, albeit of highly
43 questionable reliability, indicated that Henry Rodriguez and/or
44 other Rescue Ten personnel found Katherine Selva in a state
45 resembling catatonia and/or still actively seizing, and

46 WHEREAS, however, rescue personnel claimed to have been
47 unable to obtain symptoms, and

48 WHEREAS, these reports and testimony indicate that Rescue
49 Ten personnel transported Katherine Selva to Jackson Memorial
50 Hospital immediately upon arrival at the Selva residence or
51 shortly thereafter, and

52 WHEREAS, during transport, one or more of the rescue
53 personnel claim to have made several attempts to start an
54 intravenous drip, but to no avail, and

55 WHEREAS, this claim notwithstanding, rescue personnel did
56 successfully administer at least 1 additional milligram of

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57 Valium intravenously, and

58 WHEREAS, critically however, the only oxygen the rescue
59 personnel administered to Katherine Selva during transport was
60 via standard mask instead of a valve mask, and the rescue
61 personnel did not have, and consequently did not utilize, an
62 oxygen saturation monitor, and

63 WHEREAS, moreover, it was clear that the rescue personnel
64 did not watch Katherine Selva's oxygen intake as they should
65 have, and

66 WHEREAS, upon arrival at the hospital, Katherine Selva was
67 cyanotic, or oxygen starved, with her skin appearing blue in
68 color, and

69 WHEREAS, Katherine Selva's oxygen saturation rates were
70 determined upon admission to be a mere 35 percent with a heart
71 rate of 210 beats per minute, and

72 WHEREAS, immediately, hospital personnel treated Katherine
73 Selva with Ativan and used a ventilation mask to oxygenate her
74 in preparation for intubation, and

75 WHEREAS, Katherine Selva's oxygen saturation rates improved
76 dramatically to 85 percent and her heart rate decreased to 169
77 beats per minute following initial treatment, and

78 WHEREAS, despite heroic efforts by hospital personnel,
79 Katherine Selva had already suffered permanent brain damage as a
80 direct result of lack of oxygen, and

81 WHEREAS, the City of Miami's rescue personnel owed a duty
82 to Katherine Selva to respond appropriately and render medical
83 treatment in accordance with the generally accepted standard of
84 care, and

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85 WHEREAS, the city's rescue personnel, notably one or more
86 paramedics in Rescue Ten, breached this duty by failing to
87 respond in a timely and appropriate fashion and by failing
88 specifically to treat the oxygen-starved condition of Katherine
89 Selva en route to the hospital, and

90 WHEREAS, this breach caused or substantially contributed to
91 the devastating injuries suffered by Katherine Selva, which are
92 uncontested as being permanent and irreversible, and

93 WHEREAS, this breach also caused Katherine Selva to incur
94 past and future expenses, including, without limitation,
95 hospitalization, daily medical treatment and nursing care,
96 transportation, tutoring or teaching, and child care or
97 supervision, for which expenses Aldo Selva and Maria Alcobar
98 have been and will be responsible, and

99 WHEREAS, it has been determined that Medicaid alone has
100 paid nearly \$900,000 for medical expenses incurred for the care
101 and treatment of the incapacitated minor child and that the
102 Agency for Health Care Administration, through its contract
103 representative, Health Management Systems, Inc., has filed or
104 will file a Medicaid casualty lien associated with these
105 payments, and

106 WHEREAS, these economic losses to Katherine Selva are
107 permanent and continuing, and

108 WHEREAS, finally, both parents have suffered and will
109 continue to suffer the loss of society, companionship, and
110 comfort of their daughter, Katherine Selva, and

111 WHEREAS, plaintiffs have reached a conditional settlement
112 with the City of Miami to settle this case for the gross amount

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113 of \$2,625,000, and

114 WHEREAS, the plaintiffs are permitted under the terms of
 115 the settlement to propose a plan to allocate the settlement
 116 funds as they deem appropriate, subject to the approval of the
 117 guardian ad litem and the court, and

118 WHEREAS, following payment by the City of Miami of the sum
 119 of \$200,000, the limit of liability set forth under s. 768.28,
 120 Florida Statutes, the remaining amount of the claim will be
 121 \$2,425,000, and

122 WHEREAS, the City of Miami has agreed to actively support
 123 this claim bill, NOW, THEREFORE,

124

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

126

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

129 Section 2. The City of Miami is authorized and directed to
 130 appropriate from funds of the city not otherwise appropriated
 131 and to draw a warrant in the sum of \$2,425,000 payable to Maria
 132 Alcobar, parent and natural guardian of Katherine Selva, minor
 133 child of Aldo Selva and Maria Alcobar, to be placed in a Special
 134 Needs Trust created for the exclusive use and benefit of
 135 Katherine Selva, a minor, as compensation for injuries and
 136 damages sustained.

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