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1                   A bill to be entitled  
2           An act for the relief of Marissa Amora; providing an  
3           appropriation to compensate Marissa Amora, a minor, by and  
4           through her legal guardians, Dawn Amora and Ricardo Amora,  
5           for injuries she sustained as a result of the negligence  
6           of employees of the Department of Children and Family  
7           Services; providing for payment into a restricted  
8           guardianship account; providing for payment of costs;  
9           providing for repayment of Medicaid liens; providing a  
10          limitation on attorney's fees, lobbying fees, costs, and  
11          other similar expenses relating to the claim; providing an  
12          effective date.

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14           WHEREAS, on November 8, 2000, Moesha Sylencieux, now known  
15          as Marissa Amora, who was not yet 2 years old, was brought to  
16          the emergency room of Bethesda Memorial Hospital in Palm Beach  
17          County, Florida, and

18           WHEREAS, Marissa Amora's natural mother told the hospital  
19          staff that Marissa Amora fell from a standing position and  
20          consequently could not walk, and

21           WHEREAS, while she was at the hospital, Marissa Amora could  
22          not bear weight on her legs, and

23           WHEREAS, during a 3-day admission that followed, an MRI  
24          showed the presence of an unexplained mass in the area of  
25          Marissa Amora's spine, and she was transferred to Miami  
26          Children's Hospital for further testing and treatment, and

27           WHEREAS, Marissa Amora was admitted to Miami Children's  
28          Hospital on November 11, 2000, arriving with a working diagnosis

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29 of "spinal cord tumor," and during the following month she was  
30 fully evaluated for the tumor that was presumed to have  
31 accounted for her sudden inability to walk, with all test  
32 results normal, and

33 WHEREAS, on December 4, 2000, Marissa Amora underwent a  
34 biopsy of the mass in the area of her spine, which indicated  
35 that the mass was benign, and

36 WHEREAS, during Marissa Amora's approximately 1-month  
37 admission to Miami Children's Hospital, several incidents gave  
38 rise to suspicions and concerns on the part of the hospital  
39 nursing staff and social workers with respect to Marissa Amora's  
40 safety, and

41 WHEREAS, the hospital staff and social workers were  
42 concerned about the natural mother's lack of involvement with  
43 her daughter and about the interactions between Marissa Amora  
44 and her natural mother who, over the course of Marissa Amora's  
45 hospitalization at Miami Children's Hospital, came to the  
46 hospital only four times, and who failed to visit her at other  
47 times during her hospitalization even though hospital social  
48 workers provided her with directions and money for  
49 transportation, and

50 WHEREAS, when Marissa Amora's natural mother did come to  
51 the hospital, families of other patients observed her spanking  
52 Marissa Amora while Marissa was in her hospital bed, and

53 WHEREAS, Marissa Amora's natural mother failed to come to  
54 the hospital on December 9, 2000, the day that her daughter was  
55 supposed to be discharged, and

56 WHEREAS, with Marissa Amora waiting to be discharged, the

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57 | social workers at the hospital appropriately called the  
58 | Department of Children and Family Services, the call being  
59 | designated as one for "special needs," given the mother's lack  
60 | of ability or desire to care for her daughter and the general  
61 | lack of bonding between mother and child, and

62 |       WHEREAS, Marissa Amora's case was assigned to a protective  
63 | investigator for the Department of Children and Family Services  
64 | in District 11, Miami-Dade County, Shirley Arias, who commenced  
65 | her investigation by going to Miami Children's Hospital on  
66 | Monday, December 11, 2000, at which point she began compiling a  
67 | list of concerns and risk factors that indicated possible  
68 | physical abuse, and

69 |       WHEREAS, Investigator Arias reviewed the hospital records  
70 | and found that there was evidence that Marissa Amora had an  
71 | unexplained fracture of her clavicle and that, though the mother  
72 | had been assisted and counseled by the social workers at the  
73 | hospital, the social workers continued to have serious concerns  
74 | for the mother's desire and ability to care for her child, and

75 |       WHEREAS, Investigator Arias observed that Marissa Amora  
76 | would cry when her mother walked into her hospital room and then  
77 | would become calm when her mother would leave, and also observed  
78 | a general lack of bonding between mother and child, and

79 |       WHEREAS, on Monday, December 11, 2000, a meeting took place  
80 | in the hospital between Investigator Arias, Marissa Amora's  
81 | natural mother, and Dr. Jefry Biehler, an in-house director of  
82 | the Child Advocacy Team who was asked to be involved at the  
83 | request of the hospital's social workers, and

84 |       WHEREAS, Dr. Biehler interviewed the natural mother in the

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85 presence of Investigator Arias and reported that he "had  
86 concerns" and recommended to Investigator Arias that the child  
87 should not be given to the mother unless a home study was  
88 completed to ensure that the environment in the home was safe  
89 for the child, and

90 WHEREAS, the suggested home study was never performed by  
91 the department, and

92 WHEREAS, instead of initiating a home study, Investigator  
93 Arias contacted the department's Palm Beach County District 9  
94 office, whereupon the matter was referred to Protective  
95 Investigator Evelyn Diaz Collins, and

96 WHEREAS, Investigator Collins failed to conduct or initiate  
97 a home study, and

98 WHEREAS, Investigator Collins instead went to the family  
99 home while Marissa Amora was still in the hospital, met with the  
100 natural mother, noting that the apartment was devoid of any baby  
101 items, and subsequently informed the natural mother that she  
102 would need to purchase a crib and that she would return the  
103 following week to make sure that this condition had been  
104 complied with, and

105 WHEREAS, Investigator Collins never returned to the home  
106 and performed no followup whatsoever, and

107 WHEREAS, the requested home study was never completed, yet  
108 department supervisors in Miami incorrectly believed that a home  
109 study had been completed, and incorrectly assumed that there was  
110 no threat to the child, and

111 WHEREAS, Investigator Arias met with her supervisor, who  
112 advised that she should refer the case to the Department of

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113 Children and Family Services' legal department, whereupon  
114 investigator Arias consulted with the legal department on  
115 Wednesday, December 13, 2000, and was advised that Marissa Amora  
116 should not be allowed to leave Miami Children's Hospital until  
117 the department had completed a home study, spoken with Marissa  
118 Amora's natural father in New Jersey, assigned staff to the case  
119 from the child protection team, and conducted criminal checks of  
120 the appropriate parties, and

121 WHEREAS, deposition and trial testimony by Investigator  
122 Arias revealed that she understood that the required home study,  
123 the contact with Marissa Amora's natural father, the assignment  
124 of staff to the case from the child protection team, and the  
125 conduct of specified criminal checks were departmental "marching  
126 orders" and that Marissa Amora should not have been allowed to  
127 leave the hospital until all of these conditions had been  
128 complied with, and

129 WHEREAS, on December 14, 2000, Investigator Arias completed  
130 a departmental initial child safety assessment form, as required  
131 by statute, which showed that Investigator Arias and her  
132 supervisor concluded that physical abuse of Marissa Amora was  
133 suspected, and

134 WHEREAS, Investigator Arias testified at trial that Marissa  
135 Amora should never have been allowed to go home, that sending  
136 Marissa Amora home was wrong, and that she should have voiced  
137 her objection to her supervisors, and

138 WHEREAS, Investigator Arias' immediate supervisor, Robert  
139 Boyak, testified under oath that the case should have been  
140 assigned to the child protection team before Marissa Amora was

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141 allowed to leave the hospital, but that no such referral to the  
142 child protection team was completed, and

143 WHEREAS, on December 14, 2000, Investigator Arias began  
144 contacting Marissa Amora's natural mother for the purpose of  
145 having Marissa Amora picked up from the hospital, despite the  
146 fact that a home study had not been completed, the case had not  
147 been assigned to the child protection team, and Marissa Amora's  
148 natural father had not been consulted, all of which had been  
149 advisements of the Department of Children and Family Services'  
150 legal department on December 13, 2000, and

151 WHEREAS, the department's log written by Investigator Arias  
152 reflects numerous contacts prior to discharge from the hospital  
153 from the social workers at Miami Children's Hospital challenging  
154 the department's decision to allow Marissa Amora to go home with  
155 her natural mother, and

156 WHEREAS, calls placed by the hospital's social workers to  
157 the department's Palm Beach County district office, to the  
158 Miami-Dade district office, and to supervisors in the chain of  
159 command at the department were either not returned or, when  
160 calls were returned to social workers, they were given false  
161 assurances that the department's investigation had revealed that  
162 there was no danger to Marissa Amora, and

163 WHEREAS, on December 15, 2000, Marissa Amora cried while  
164 she was being taken from Miami Children's Hospital by her  
165 natural mother, and the department was repeatedly told that  
166 hospital social workers were very dissatisfied with the decision  
167 to allow the child to go home with her natural mother and that  
168 hospital nurses were willing to adopt Marissa Amora, and

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169 WHEREAS, on January 11, 2001, Marissa Amora was again  
170 admitted to the hospital's pediatric intensive care unit for  
171 treatment for massive brain injuries, leg fractures, arm  
172 fractures, and multiple other injuries that the chief of  
173 pediatric intensive care opined were likely due to being swung  
174 by her arms and legs and smashed into a wall or the floor, and

175 WHEREAS, the child protection team in Palm Beach County, as  
176 well as hospital physicians in Boca Raton and Delray Beach,  
177 determined that Marissa Amora's problems, dating back to the  
178 admission to Bethesda Memorial Hospital on November 8, 2000, and  
179 the life-threatening trauma with severe brain damage sustained  
180 on January 11, 2001, were due to injuries caused by physical  
181 abuse, and

182 WHEREAS, Marissa Amora remained in the hospital for several  
183 months while undergoing a series of operations, including brain  
184 surgery to relieve pressure from massive bleeding in her brain,  
185 a tracheotomy to establish and maintain her ability to breathe,  
186 and abdominal surgery to allow for nutrition to pass directly  
187 into her stomach due to an inability to eat, and

188 WHEREAS, Marissa Amora has since required subsequent  
189 additional surgical procedures to address many of the chronic  
190 problems caused by her severe brain injury, and continues to  
191 require tube feedings because she is unable to eat food by  
192 mouth, and

193 WHEREAS, Marissa Amora will require a high level of care  
194 throughout the remainder of her life, and

195 WHEREAS, employees of the Miami-Dade County and Palm Beach  
196 County offices of the Department of Children and Family Services

197 admitted to making critical errors with regard to this case and  
 198 admitted that department procedures were not followed, and

199 WHEREAS, as a result of the negligence of the employees of  
 200 the Department of Children and Family Services, Marissa Amora  
 201 has suffered permanent and profound brain damage and will  
 202 require total care for the remainder of her life, and

203 WHEREAS, at trial the jury determined Marissa Amora's total  
 204 past and future economic losses to be \$21,070,000, and her past  
 205 and future noneconomic damages, which include disability, loss  
 206 of enjoyment of life, bodily injury, physical and mental pain  
 207 and suffering, and disfigurement, to be \$13,750,000, and

208 WHEREAS, the life care plan for Marissa Amora, as devised  
 209 by former District 11 Administrator and Certified Life Care  
 210 Planner for the former Department of Health and Rehabilitative  
 211 Services of the State of Florida, Lawrence Forman, M.Ed., has a  
 212 present value cost of \$23,116,052.50, and

213 WHEREAS, the department's own experts, Sharon Griffin,  
 214 M.Ed., Habilitationist, and Bernard F. Pettingill, Jr., Ph.D.,  
 215 Economist, developed a life care plan for Marissa Amora, at an  
 216 estimated cost of \$19,767,867, some of which the state contended  
 217 could be borne by Medicaid or Med-waiver, and

218 WHEREAS, Marissa Amora's past medical care and expenses,  
 219 including liens, amount to \$458,719.89, and

220 WHEREAS, in legislative hearings on the claim it was the  
 221 finding of the Special Master that a restricted guardianship be  
 222 established for Marissa Amora, through which all funds  
 223 appropriated for the relief of Marissa Amora would be  
 224 administered, NOW, THEREFORE,



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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. (1) (a) The sum of \$26,849,849.08 is appropriated from the Administrative Trust Fund of the Department of Children and Family Services, or any successor thereto, or, in the event sufficient funds are not available from that fund, from the General Revenue Fund, to be paid to Marissa Amora, a minor, by and through her parents and legal guardians, Dawn Amora and Ricardo Amora, to finance the habilitative care of Marissa Amora over the duration of her lifetime, as relief for the violations of her rights, and for injuries and damages she sustained as a result of the wrongful or negligent conduct of the Department of Children and Family Services.

(b) The sum of \$102,837 is appropriated from the Administrative Trust Fund of the Department of Children and Family Services, or any successor thereto, or, in the event sufficient funds are not available from that fund, from the General Revenue Fund, to be paid to the claimant's attorneys as reimbursement for costs.

(2) The governmental entity responsible for payment of the warrant shall pay to the Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due the agency shall be equal to all unreimbursed medical payments paid by

253 Medicaid up to the date upon which this bill becomes a law.

254 (3) Any amount awarded under this act pursuant to the  
 255 waiver of sovereign immunity permitted under s. 768.28, Florida  
 256 Statutes, and this award is intended to provide the sole  
 257 compensation for all present and future claims arising out of  
 258 the factual situation described in the preamble to this act  
 259 which resulted in the injury to Marissa Amora. The total amount  
 260 paid for attorney's fees, lobbying fees, costs, and other  
 261 similar expenses relating to this claim may not exceed 25  
 262 percent of the amount awarded under subsection (1)(a).

263 Section 3. The Chief Financial Officer is directed to  
 264 execute all necessary agreements to implement the payment of  
 265 this claim, and to draw a warrant in the amount of  
 266 \$26,952,686.08 in favor of Marissa Amora, by and through her  
 267 parents and legal guardians, Dawn Amora and Ricardo Amora, upon  
 268 funds of the Department of Children and Family Services in the  
 269 State Treasury, and the Chief Financial Officer is directed to  
 270 pay the same out of such funds in the State Treasury. After  
 271 payment of Medicaid liens as provided in section 2(2), payment  
 272 of \$102,837 in costs as provided in section 2(1)(b), and payment  
 273 of fees as limited by section 2(3), the remainder shall be  
 274 deposited into the restricted guardianship account established  
 275 for the exclusive use and benefit of Marissa Amora.

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