



583986

CHAMBER ACTION

Senate

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House

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1 The Special Master on Claim Bills recommended the following
2 **amendment:**

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4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
6 and insert:

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

9 Section 2. For fiscal year 2008-2009, the sum of \$1,200,000
10 of nonrecurring General Revenue is appropriated to be paid to an
11 insurance company or other financial institution admitted and
12 authorized to issue annuity contracts in this state, selected by
13 the guardian of Marissa Amora, to finance and purchase a
14 structured settlement for the benefit of Marissa Amora, which
15 shall include an annuity that must be used for the habilitative
16 care of Marissa Amora over the duration of her lifetime and as
17 relief for the violations of her rights and for injuries and



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18 damages she sustained as a result of the wrongful conduct of the
19 Department of Children and Family Services.

20 Section 3. The Chief Financial Officer is directed to
21 execute all necessary agreements to implement the payment of this
22 claim and to draw a warrant in the amount of \$1,200,000 for
23 fiscal year 2008-2009 in favor of the financier of the structured
24 settlement to be paid from the General Revenue Fund.

25 Section 4. Beginning in fiscal year 2008-2009 and for the
26 next 9 fiscal years thereafter, the Department of Children and
27 Family Services shall include in its annual legislative budget
28 request a specific appropriation for \$1,700,000 of nonrecurring
29 funds for the relief of Marissa Amora in the Administrative Trust
30 Fund or the General Revenue Fund for a total of \$17,000,000 paid
31 over 10 years.

32 Section 5. This award and any subsequent awards
33 appropriated up to a grand total of \$18,200,000 in nonrecurring
34 funds, inclusive of this award, are intended to provide the sole
35 compensation for all present and future claims arising out of the
36 factual situation described in the preamble to this act which
37 resulted in the injury to Marissa Amora. The total amount paid
38 for attorney's fees, lobbying fees, costs, and other similar
39 expenses relating to this claim may not exceed 25 percent of each
40 annual payment awarded pursuant to this act.

41 Section 6. This act shall take effect upon becoming a law.

42
43 ===== T I T L E A M E N D M E N T =====

44 And the title is amended as follows:

45 Delete everything before the enacting clause
46 and insert:

47 A bill to be entitled



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48 An act for the relief of Marissa Amora; providing an
49 appropriation to compensate Marissa Amora, a minor, for
50 injuries she sustained as a result of the negligence of
51 employees of the Department of Children and Family
52 Services; requiring a specified legislative budget
53 request; providing a limitation on attorney's fees,
54 lobbying fees, costs, and other similar expenses relating
55 to the claim; providing an effective date.

56
57 WHEREAS, on November 8, 2000, Moesha Sylencieux, now known
58 as Marissa Amora, who was not yet 2 years old, was brought to the
59 emergency room of Bethesda Memorial Hospital in Palm Beach
60 County, Florida, and

61 WHEREAS, Marissa Amora's natural mother told the hospital
62 staff that Marissa Amora fell from a standing position and
63 consequently could not walk, and

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

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

70 WHEREAS, Marissa Amora was admitted to Miami Children's
71 Hospital on November 11, 2000, arriving with a working diagnosis
72 of "spinal cord tumor," and during the following month she was
73 fully evaluated for the tumor that was presumed to have accounted
74 for her sudden inability to walk, with all test results normal,
75 and



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

79 WHEREAS, during Marissa Amora's approximately 1-month
80 admission to Miami Children's Hospital, several incidents gave
81 rise to suspicions and concerns on the part of the hospital
82 nursing staff and social workers with respect to Marissa Amora's
83 safety, and

84 WHEREAS, the hospital staff and social workers were
85 concerned about the natural mother's lack of involvement with her
86 daughter and about the interactions between Marissa Amora and her
87 natural mother who, over the course of Marissa Amora's
88 hospitalization at Miami Children's Hospital, came to the
89 hospital only four times, and who failed to visit her at other
90 times during her hospitalization even though hospital social
91 workers provided her with directions and money for
92 transportation, and

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

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

99 WHEREAS, with Marissa Amora waiting to be discharged, the
100 social workers at the hospital appropriately called the
101 Department of Children and Family Services, the call being
102 designated as one for "special needs," given the mother's lack of
103 ability or desire to care for her daughter and the general lack
104 of bonding between mother and child, and



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105 WHEREAS, Marissa Amora's case was assigned to a protective
106 investigator for the Department of Children and Family Services
107 in District 11, Miami-Dade County, Shirley Arias, who commenced
108 her investigation by going to Miami Children's Hospital on
109 Monday, December 11, 2000, at which point she began compiling a
110 list of concerns and risk factors that indicated possible
111 physical abuse, and

112 WHEREAS, Investigator Arias reviewed the hospital records
113 and found that there was evidence that Marissa Amora had an
114 unexplained fracture of her clavicle and that, though the mother
115 had been assisted and counseled by the social workers at the
116 hospital, the social workers continued to have serious concerns
117 for the mother's desire and ability to care for her child, and

118 WHEREAS, Investigator Arias observed that Marissa Amora
119 would cry when her mother walked into her hospital room and then
120 would become calm when her mother would leave, and also observed
121 a general lack of bonding between mother and child, and

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

127 WHEREAS, Dr. Biehler interviewed the natural mother in the
128 presence of Investigator Arias and reported that he "had
129 concerns" and recommended to Investigator Arias that the child
130 should not be given to the mother unless a home study was
131 completed to ensure that the environment in the home was safe for
132 the child, and

133 WHEREAS, the suggested home study was never performed by the
134 department, and



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135 WHEREAS, instead of initiating a home study, Investigator
136 Arias contacted the department's Palm Beach County District 9
137 office, whereupon the matter was referred to Protective
138 Investigator Evelyn Diaz Collins, and

139 WHEREAS, Investigator Collins failed to conduct or initiate
140 a home study, and

141 WHEREAS, Investigator Collins instead went to the family
142 home while Marissa Amora was still in the hospital, met with the
143 natural mother, noting that the apartment was devoid of any baby
144 items, and subsequently informed the natural mother that she
145 would need to purchase a crib and that she would return the
146 following week to make sure that this condition had been complied
147 with, and

148 WHEREAS, Investigator Collins never returned to the home and
149 performed no followup whatsoever, and

150 WHEREAS, the requested home study was never completed, yet
151 department supervisors in Miami incorrectly believed that a home
152 study had been completed, and incorrectly assumed that there was
153 no threat to the child, and

154 WHEREAS, Investigator Arias met with her supervisor, who
155 advised that she should refer the case to the Department of
156 Children and Family Services' legal department, whereupon
157 investigator Arias consulted with the legal department on
158 Wednesday, December 13, 2000, and was advised that Marissa Amora
159 should not be allowed to leave Miami Children's Hospital until
160 the department had completed a home study, spoken with Marissa
161 Amora's natural father in New Jersey, assigned staff to the case
162 from the child protection team, and conducted criminal checks of
163 the appropriate parties, and



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164 WHEREAS, deposition and trial testimony by Investigator
165 Arias revealed that she understood that the required home study,
166 the contact with Marissa Amora's natural father, the assignment
167 of staff to the case from the child protection team, and the
168 conduct of specified criminal checks were departmental "marching
169 orders" and that Marissa Amora should not have been allowed to
170 leave the hospital until all of these conditions had been
171 complied with, and

172 WHEREAS, on December 14, 2000, Investigator Arias completed
173 a departmental initial child safety assessment form, as required
174 by statute, which showed that Investigator Arias and her
175 supervisor concluded that physical abuse of Marissa Amora was
176 suspected, and

177 WHEREAS, Investigator Arias testified at trial that Marissa
178 Amora should never have been allowed to go home, that sending
179 Marissa Amora home was wrong, and that she should have voiced her
180 objection to her supervisors, and

181 WHEREAS, Investigator Arias' immediate supervisor, Robert
182 Boyak, testified under oath that the case should have been
183 assigned to the child protection team before Marissa Amora was
184 allowed to leave the hospital, but that no such referral to the
185 child protection team was completed, and

186 WHEREAS, on December 14, 2000, Investigator Arias began
187 contacting Marissa Amora's natural mother for the purpose of
188 having Marissa Amora picked up from the hospital, despite the
189 fact that a home study had not been completed, the case had not
190 been assigned to the child protection team, and Marissa Amora's
191 natural father had not been consulted, all of which had been
192 advisements of the Department of Children and Family Services'
193 legal department on December 13, 2000, and



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194 WHEREAS, the department's log written by Investigator Arias
195 reflects numerous contacts prior to discharge from the hospital
196 from the social workers at Miami Children's Hospital challenging
197 the department's decision to allow Marissa Amora to go home with
198 her natural mother, and

199 WHEREAS, calls placed by the hospital's social workers to
200 the department's Palm Beach County district office, to the Miami-
201 Dade district office, and to supervisors in the chain of command
202 at the department were either not returned or, when calls were
203 returned to social workers, they were given false assurances that
204 the department's investigation had revealed that there was no
205 danger to Marissa Amora, and

206 WHEREAS, on December 15, 2000, Marissa Amora cried while she
207 was being taken from Miami Children's Hospital by her natural
208 mother, and the department was repeatedly told that hospital
209 social workers were very dissatisfied with the decision to allow
210 the child to go home with her natural mother and that hospital
211 nurses were willing to adopt Marissa Amora, and

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

218 WHEREAS, the child protection team in Palm Beach County, as
219 well as hospital physicians in Boca Raton and Delray Beach,
220 determined that Marissa Amora's problems, dating back to the
221 admission to Bethesda Memorial Hospital on November 8, 2000, and
222 the life-threatening trauma with severe brain damage sustained on



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223 January 11, 2001, were due to injuries caused by physical abuse,
224 and

225 WHEREAS, Marissa Amora remained in the hospital for several
226 months while undergoing a series of operations, including brain
227 surgery to relieve pressure from massive bleeding in her brain, a
228 tracheotomy to establish and maintain her ability to breathe, and
229 abdominal surgery to allow for nutrition to pass directly into
230 her stomach due to an inability to eat, and

231 WHEREAS, Marissa Amora has since required subsequent
232 additional surgical procedures to address many of the chronic
233 problems caused by her severe brain injury, and continues to
234 require tube feedings because she is unable to eat food by mouth,
235 and

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

238 WHEREAS, employees of the Miami-Dade County and Palm Beach
239 County offices of the Department of Children and Family Services
240 admitted to making critical errors with regard to this case and
241 admitted that department procedures were not followed, and

242 WHEREAS, as a result of the negligence of the employees of
243 the Department of Children and Family Services, Marissa Amora has
244 suffered permanent and profound brain damage and will require
245 total care for the remainder of her life, and

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

251 WHEREAS, the life care plan for Marissa Amora, as devised by
252 former District 11 Administrator and Certified Life Care Planner



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253 | for the former Department of Health and Rehabilitative Services
254 | of the State of Florida, Lawrence Forman, M.Ed., has a present
255 | value cost of \$23,116,052.50, and

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

261 | WHEREAS, Marissa Amora's past medical care and expenses,
262 | including liens, amount to \$458,719.89, NOW, THEREFORE,