

1 A bill to be entitled

2 An act for the relief of Edwidge Valmyr Gabriel, as parent
3 and natural guardian of her son, Stanley Valmyr, a minor,
4 and as personal representative of the Estate of Stanley
5 Valmyr, deceased, by the City of North Miami; providing
6 for an appropriation to compensate her for the wrongful
7 death of her son, Stanley Valmyr, as a result of the
8 negligence of the City of North Miami; providing a
9 limitation on the payment of fees and costs; providing an
10 effective date.

11
12 WHEREAS, on March 28, 2007, Edwidge Valmyr Gabriel
13 registered her son, Stanley Valmyr, who was 7 years of age, for
14 a Fun Day camp operated by the City of North Miami, and

15 WHEREAS, the Fun Day camp was supposed to consist of
16 various arts and crafts activities at the community center, and

17 WHEREAS, before March 30, 2007, which was the day on which
18 the Fun Day was scheduled, the City of North Miami planned a day
19 at the Thomas Sasso Pool located in the City of North Miami, and

20 WHEREAS, on March 30, 2007, at approximately 8 a.m.,
21 Edwidge Valmyr Gabriel took Stanley to the camp, and

22 WHEREAS, the children who were taken to the pool were given
23 swim tests, and

24 WHEREAS, Stanley and many other children who were unable to
25 swim were sent to a more shallow area of the pool, and

26 WHEREAS, if the camp counselors had known that they were
27 bringing the children to the pool that day, they would have been
28 in the pool to observe and protect the children, and

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29 WHEREAS, the City of North Miami had four lifeguards on
30 duty that day at the Thomas Sasso Pool, and

31 WHEREAS, while the children swam in the pool, three of
32 those four lifeguards were in the administrative office, rather
33 than observing the children, and

34 WHEREAS, one lifeguard was sitting in the lifeguard chair
35 furthest from the area where the children were swimming, and

36 WHEREAS, Stanley Valmyr drowned in the Thomas Sasso Pool on
37 March 30, 2007, and died on July 26, 2007, as a result of
38 injuries sustained from drowning, and

39 WHEREAS, the City of North Miami was negligent in its
40 actions, which directly resulted in the death of Stanley Valmyr,
41 and

42 WHEREAS, a tort claim was filed on behalf of Edwidge Valmyr
43 Gabriel, as parent and natural guardian of her son, Stanley
44 Valmyr, a minor, and as personal representative of his estate,
45 case number 08-22810(13), in the Circuit Court for the Eleventh
46 Judicial Circuit, and

47 WHEREAS, the claim against the City of North Miami was
48 settled prior to trial, and

49 WHEREAS, the City of North Miami has agreed to pay \$200,000
50 to Edwidge Valmyr Gabriel, pursuant to the statutory limits of
51 liability set forth in s. 768.28, Florida Statutes, and

52 WHEREAS, the settlement agreement provides for the entry of
53 a consent judgment in the amount of \$750,000 to be paid in eight
54 equal payments beginning on the first anniversary of the passage
55 of this claims bill, and each year thereafter, and

56 WHEREAS, the City of North Miami has agreed to pay 50

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57 | percent of the negotiated medical lien asserted by Jackson
 58 | Memorial Hospital, up to \$40,000, and

59 | WHEREAS, the amount of the medical lien asserted by
 60 | Medicare is resolved, and

61 | WHEREAS, the total amount of the medical lien is
 62 | \$134,007.61, and

63 | WHEREAS, Medicare has agreed to installments until the lien
 64 | is satisfied, and

65 | WHEREAS, the prior attorneys for Edwidge Valmyr Gabriel
 66 | asserted a charging lien, the charging lien has been satisfied,
 67 | and the total amount of attorney's fees to be paid by Edwidge
 68 | Valmyr Gabriel will not exceed 25 percent of the recovery, and

69 | WHEREAS, pursuant to the settlement, the City of North
 70 | Miami agrees that the passage of this act is appropriate and
 71 | agrees to pay in accordance with this act, NOW, THEREFORE,

72 |
 73 | Be It Enacted by the Legislature of the State of Florida:

74 |
 75 | Section 1. The facts stated in the preamble to this act
 76 | are found and declared to be true.

77 | Section 2. The City of North Miami is authorized and
 78 | directed to appropriate from funds of the city not otherwise
 79 | appropriated and draw a warrant payable to Edwidge Valmyr
 80 | Gabriel, as natural parent and guardian of her son, Stanley
 81 | Valmyr, a minor, and personal representative of his estate, in
 82 | the sum of \$750,000 to be paid in eight equal payments of
 83 | \$93,750, beginning on the first anniversary of the passage of
 84 | this claim bill and each year thereafter, plus an additional

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85 \$4,185.50 to be included in the first warrant as payment for 50
86 percent of the negotiated medical lien asserted by Jackson
87 Memorial Hospital, as compensation for the death of Stanley
88 Valmyr due to the negligence of the City of North Miami.

89 Section 3. The amount paid by the City of North Miami
90 pursuant to s. 768.28, Florida Statutes, and the amount awarded
91 under this act are intended to provide the sole compensation for
92 all present and future claims arising out of the factual
93 situation described in this act which resulted in the death of
94 Stanley Valmyr. The total amount paid for attorney's fees,
95 lobbying fees, costs, and other similar expenses relating to
96 this claim may not exceed 25 percent of the amount awarded under
97 this act.

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