



121814

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2010	.	
	.	
	.	
	.	

The Committee on Community Affairs (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

Section 2. The City of North Miami is authorized and directed to appropriate from funds of the city not otherwise appropriated and draw a warrant payable to Edwidge Valmyr Gabriel, as natural parent and guardian of her son, Stanley Valmyr, a minor, and personal representative of his estate, in the sum of \$750,000 to be paid in eight equal payments of



121814

13 \$93,750, beginning on the first anniversary of the passage of
14 this claims bill and each year thereafter, plus an amount
15 equivalent to 50 percent of the negotiated medical lien asserted
16 by Jackson Memorial Hospital up to \$40,000, as compensation for
17 the death of Stanley Valmyr due to the negligence of the City of
18 North Miami.

19 Section 3. The amount paid by the City of North Miami
20 pursuant to s. 768.28, Florida Statutes, and the amount awarded
21 under this act are intended to provide the sole compensation for
22 all present and future claims arising out of the factual
23 situation described in this act which resulted in the death of
24 Stanley Valmyr. The total amount paid for attorney's fees,
25 lobbying fees, costs, and other similar expenses relating to
26 this claim may not exceed 25 percent of the amount awarded under
27 this act.

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

29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

32 Delete everything before the enacting clause
33 and insert:

34 A bill to be entitled
35 An act for the relief of Edwidge Valmyr Gabriel, as
36 parent and natural guardian of her son, Stanley
37 Valmyr, a minor, and as personal representative of the
38 Estate of Stanley Valmyr, deceased, by the City of
39 North Miami; providing for an appropriation to
40 compensate her for the wrongful death of her son,
41 Stanley Valmyr, as a result of the negligence of the



121814

42 City of North Miami; providing a limitation on the
43 payment of fees and costs; providing an effective
44 date.

45
46 WHEREAS, on March 28, 2007, Edwidge Valmyr Gabriel
47 registered her son, Stanley Valmyr, who was 7 years of age, for
48 a Fun Day camp operated by the City of North Miami, and

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

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

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

56 WHEREAS, the children who were taken to the pool were given
57 swim tests, and

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

60 WHEREAS, if the camp counselors had known that they were
61 bringing the children to the pool that day, they would have been
62 in the pool to observe and protect the children, and

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

65 WHEREAS, while the children swam in the pool, three of
66 those four lifeguards were in the administrative office, rather
67 than observing the children, and

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

70 WHEREAS, Stanley Valmyr drowned in the Thomas Sasso Pool on



121814

71 March 30, 2007, and died on July 26, 2007, as a result of
72 injuries sustained from drowning, and

73 WHEREAS, the City of North Miami was negligent in its
74 actions, which directly resulted in the death of Stanley Valmyr,
75 and

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

81 WHEREAS, the claim against the City of North Miami was
82 settled prior to trial, and

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

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

90 WHEREAS, the City of North Miami has agreed to pay 50
91 percent of the negotiated medical lien asserted by Jackson
92 Memorial Hospital, up to \$40,000, and

93 WHEREAS, the amount of the medical lien asserted by
94 Medicare is resolved, and

95 WHEREAS, the total amount of the medical lien is
96 \$134,007.61, and

97 WHEREAS, Medicare has agreed to installments until the lien
98 is satisfied, and

99 WHEREAS, the prior attorneys for Edwidge Valmyr Gabriel



121814

100 asserted a charging lien, the charging liens has been satisfied,
101 and the total amount of attorney's fees to be paid by Edwidge
102 Valmyr Gabriel will not exceed 25 percent of the recovery, and
103 WHEREAS, pursuant to the settlement, the City of North
104 Miami agrees that the passage of this act is appropriate and
105 agrees to pay in accordance with this act, NOW, THEREFORE,