

By the Committee on Community Affairs; and Senator Peadar

578-03535-10

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1 A bill to be entitled
2 An act for the relief of Edwidge Valmyr Gabriel, as
3 parent and natural guardian of her son, Stanley
4 Valmyr, a minor, and as personal representative of the
5 Estate of Stanley Valmyr, deceased, by the City of
6 North Miami; providing for an appropriation to
7 compensate her for the wrongful death of her son,
8 Stanley Valmyr, as a result of the negligence of the
9 City of North Miami; providing a limitation on the
10 payment of fees and costs; providing an effective
11 date.
12
13 WHEREAS, on March 28, 2007, Edwidge Valmyr Gabriel
14 registered her son, Stanley Valmyr, who was 7 years of age, for
15 a Fun Day camp operated by the City of North Miami, and
16 WHEREAS, the Fun Day camp was supposed to consist of
17 various arts and crafts activities at the community center, and
18 WHEREAS, before March 30, 2007, which was the day on which
19 the Fun Day was scheduled, the City of North Miami planned a day
20 at the Thomas Sasso Pool located in the City of North Miami, and
21 WHEREAS, on March 30, 2007, at approximately 8 a.m.,
22 Edwidge Valmyr Gabriel took Stanley to the camp, and
23 WHEREAS, the children who were taken to the pool were given
24 swim tests, and
25 WHEREAS, Stanley and many other children who were unable to
26 swim were sent to a more shallow area of the pool, and
27 WHEREAS, if the camp counselors had known that they were
28 bringing the children to the pool that day, they would have been
29 in the pool to observe and protect the children, and

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

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

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

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

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

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

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

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

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

57 WHEREAS, the City of North Miami has agreed to pay 50
58 percent of the negotiated medical lien asserted by Jackson

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59 Memorial Hospital, up to \$40,000, and

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

62 WHEREAS, the total amount of the medical lien is
63 \$134,007.61, and

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

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

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

73
74 Be It Enacted by the Legislature of the State of Florida:

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

78 Section 2. The City of North Miami is authorized and
79 directed to appropriate from funds of the city not otherwise
80 appropriated and draw a warrant payable to Edwidge Valmyr
81 Gabriel, as natural parent and guardian of her son, Stanley
82 Valmyr, a minor, and personal representative of his estate, in
83 the sum of \$750,000 to be paid in eight equal payments of
84 \$93,750, beginning on the first anniversary of the passage of
85 this claim bill and each year thereafter, plus an additional
86 \$4,185.50 to be included in the first warrant as payment for 50
87 percent of the negotiated medical lien asserted by Jackson

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88 Memorial Hospital, as compensation for the death of Stanley
89 Valmyr due to the negligence of the City of North Miami.

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

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