

By Senator Rich

34-00115-10

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1 A bill to be entitled
2 An act for the relief of Madonna Castillo by the City
3 of Hialeah; providing for an appropriation to
4 compensate her for injuries and damages that she
5 sustained as a result of the negligence of the City of
6 Hialeah; providing for attorney's fees; providing a
7 limitation on the payment of fees and costs; providing
8 an effective date.
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10 WHEREAS, on July 3, 1998, Madonna Castillo, a minor, was
11 swimming in the public pool at Milander Park in the City of
12 Hialeah, and
13 WHEREAS, the City of Hialeah managed and operated the pool
14 at Milander Park, and
15 WHEREAS, city employees allowed swimmers to be rowdy in and
16 around areas of the pool in which others were swimming, and
17 WHEREAS, the lifeguard on duty had abandoned his post, and
18 WHEREAS, while Madonna Castillo was standing in the pool
19 talking to her sister, Madonna Castillo was struck in the eye by
20 another swimmer, and
21 WHEREAS, as a result of the incident, Madonna Castillo
22 suffered total vision loss in her right eye, and underwent two
23 surgeries, including the insertion of a microvalve to regulate
24 intraocular pressure, and
25 WHEREAS, Madonna Castillo's injuries will require the
26 eventual removal of her right eye and the insertion of a
27 prosthetic eye, and
28 WHEREAS, after a jury trial resulting in a verdict in favor
29 of Madonna Castillo, the City of Hialeah initiated appellate

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30 proceedings, and

31 WHEREAS, the parties entered into a settlement agreement,
32 pursuant to which, on April 2, 2004, the City of Hialeah paid to
33 Madonna Castillo and her mother, Reyna Castillo, the sum of
34 \$100,000 each, for a total of \$200,000, and agreed to support a
35 claim bill by the Legislature in the amount of \$500,000 in favor
36 of Madonna Castillo, NOW, THEREFORE,

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38 Be It Enacted by the Legislature of the State of Florida:

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

42 Section 2. The City of Hialeah is authorized and directed
43 to appropriate from funds of the city not otherwise appropriated
44 and to draw a warrant in the amount of \$500,000, pursuant to the
45 settlement agreement, to be paid to Madonna Castillo, which sum
46 is inclusive of costs and attorney's fees as limited in
47 accordance with s. 768.28, Florida Statutes, as compensation for
48 the injuries sustained by Madonna Castillo due to the negligence
49 of the City of Hialeah.

50 Section 3. The amounts paid by the City of Hialeah pursuant
51 to s. 768.28, Florida Statutes, and the amount awarded under
52 this act are intended to provide the sole compensation for all
53 present and future claims arising out of the factual situation
54 described in this act which resulted in the injuries sustained
55 by Madonna Castillo. The total amount paid for attorney's fees,
56 lobbying fees, costs, and other similar expenses relating to
57 this claim may not exceed 25 percent of the amount awarded under
58 this act.

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