

By the Committee on Community Affairs; and Senator Rich

578-02707-10

201050c1

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

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

35  
36 Be It Enacted by the Legislature of the State of Florida:  
37

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

40 Section 2. The City of Hialeah is authorized and directed  
41 to appropriate from funds of the city not otherwise appropriated  
42 and to draw ten consecutive annual warrants in the amount of  
43 \$50,000 each, for a total settlement of \$500,000, pursuant to  
44 the settlement agreement, payable to Friedman, Rodman, & Frank  
45 Trust and Madonna Castillo, which sum is inclusive of costs and  
46 attorney's fees as limited in accordance with s. 768.28, Florida  
47 Statutes, as compensation for the injuries sustained by Madonna  
48 Castillo due to the negligence of the City of Hialeah. The first  
49 of the ten annual installments shall be paid on July 1, 2010,  
50 with annual installments to be paid each subsequent year on July  
51 1, concluding with the final installment to be paid on July 1,  
52 2019.

53 Section 3. The amounts paid by the City of Hialeah pursuant  
54 to s. 768.28, Florida Statutes, and the amount awarded under  
55 this act are intended to provide the sole compensation for all  
56 present and future claims arising out of the factual situation  
57 described in the preamble to this act which resulted in the  
58 injuries sustained by Madonna Castillo. The total amount paid

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59 for attorney's fees, lobbying fees, costs, and other similar  
60 expenses relating to this claim may not exceed 25 percent of the  
61 amount awarded under this act.

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