

HB 603

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1 A bill to be entitled
2 An act for the relief of Yvonne Morton; providing an
3 appropriation to compensate her for injuries and damages
4 sustained as a result of the negligence of the Department
5 of Health; providing a limitation on the payment of fees
6 and costs; providing an effective date.

7
8 WHEREAS, on January 2, 2007, Yvonne Morton was driving her
9 automobile on Pinellas Avenue South in Tarpon Springs, Pinellas
10 County, when she was struck by William Herbert, a pharmacy
11 inspector for the Division of Medical Quality Assurance in the
12 Department of Health. Mr. Herbert was driving an automobile
13 owned by the Department of Health in the course and scope of his
14 employment, and

15 WHEREAS, Mr. Herbert failed to yield at a stop sign and
16 pulled out in front of Ms. Morton's vehicle, causing a
17 substantial collision. Mr. Herbert was issued a traffic citation
18 for failure to yield at a stop sign and violating Ms. Morton's
19 right of way, and

20 WHEREAS, Ms. Morton was transported by air to the Bayfront
21 Medical Center in St. Petersburg and remained a patient at
22 Bayfront until January 31, 2007. Ms. Morton, who was 85 years
23 old at the time of the collision, was determined to have
24 sustained multiple injuries, including multiple fractured ribs,
25 a scalp hematoma, and neck injuries later diagnosed as central
26 cord syndrome. During her hospital stay, her neurosurgeon, David
27 M. McKalip, M.D., performed surgery on her neck. During the
28 surgical procedure, described as a C5-C6 lateral mass

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29 instrumentation and fusion, metal hardware, including screws,
30 rods, and a crosslink, were implanted, and

31 WHEREAS, upon discharge, Ms. Morton was transported by
32 ambulance to Manor Care of Palm Harbor, a nursing facility in
33 Palm Harbor, Florida. Ms. Morton resided at Manor Care until
34 February 6, 2007, when she was transported by ambulance to Mease
35 Countryside Hospital for dyspnea with the suspected cause being
36 a pulmonary embolus due to lengthy bed rest. She remained at
37 Mease until February 17, 2007, when she was discharged to a new
38 nursing facility, Orchard Ridge Rehabilitation in New Port
39 Richey, for continued rehabilitation of her injuries, and

40 WHEREAS, Ms. Morton resided at Orchard Ridge until August
41 9, 2007, when she was transported to La Casa Grande, an assisted
42 living facility also located in New Port Richey, where she
43 continues to reside. Her average monthly living expenses at the
44 facility are currently \$3,531.60, and

45 WHEREAS, prior to the accident, Ms. Morton was independent
46 and self-sufficient, living on her own in her own home, driving
47 her own car, and exercising regularly. Following the accident,
48 she has been confined to hospitals, nursing homes, and, now, an
49 assisted living facility. The injuries she sustained have caused
50 her to depend on others for the performance of most of the
51 activities of daily living, and have caused such difficulty and
52 inability to ambulate that she now is confined to a wheelchair,
53 and

54 WHEREAS, Ms. Morton's total medical expenses incurred as a
55 result of the accident, including hospitalizations, physician
56 services, surgical services, diagnostic imaging studies, air and

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57 ambulance transportation, nursing home residency fees, and
58 assisted living facility fees, through July 31, 2009, amount to
59 approximately \$570,000, and

60 WHEREAS, Ms. Morton's personal automobile insurer, State
61 Farm Mutual Automobile Insurance Company, has paid \$10,000
62 toward her medical bills in personal injury protection benefits
63 and \$100,000 in uninsured/underinsured motorist benefits.
64 Humana, the American Association of Retired Persons, and
65 Medicare have also paid toward her bills. These organizations
66 retain subrogation interests on any recovery made by Ms. Morton,
67 and

68 WHEREAS, a lawsuit was filed by the law firm of Lucas,
69 Green, and Magazine on behalf of Ms. Morton in the Circuit Court
70 of Pinellas County, Case No. 07-9114-C-13, against the State of
71 Florida, Department of Health. In that lawsuit, the department
72 admitted liability and took the position that its employee,
73 William Hebert, was solely at fault for the accident. The
74 parties entered into a settlement under which the department
75 will pay its statutory limit of liability of \$100,000 pursuant
76 to s. 768.28, Florida Statutes, and the department agreed not to
77 contest or oppose any claim bill on behalf of Ms. Morton as long
78 as the claim bill did not seek compensation in excess of an
79 additional \$650,000, NOW, THEREFORE,

80

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

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

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85 Section 2. The sum of \$650,000 is appropriated from the
86 General Revenue Fund to the Department of Health for the relief
87 of Yvonne Morton for injuries and damages sustained.

88 Section 3. The Chief Financial Officer is directed to draw
89 a warrant in favor of Yvonne Morton in the sum of \$650,000 upon
90 funds of the Department of Health in the State Treasury, and to
91 pay the same out of such funds in the State Treasury.

92 Section 4. The amount paid by the Department of Health
93 pursuant to s. 768.28, Florida Statutes, and the amount awarded
94 under this act are intended to provide the sole compensation for
95 all present and future claims arising out of the factual
96 situation described in this act which resulted in the injuries
97 and damages to Yvonne Morton. The total amount paid for
98 attorney's fees, lobbying fees, costs, and other expenses
99 relating to this claim may not exceed 25 percent of the total
100 amount awarded under this act.

101 Section 5. This act shall take effect upon becoming a law.