

By Senator Norman

12-00184-12

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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  
4           damages sustained as a result of the negligence of an  
5           employee of the Department of Health; providing a  
6           limitation on the payment of fees and costs; providing  
7           an effective date.

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

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

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

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

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

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

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

55 WHEREAS, Ms. Morton's total medical expenses incurred as a  
56 result of the accident, including hospitalizations, physician  
57 services, surgical services, diagnostic imaging studies, air and  
58 ambulance transportation, nursing home residency fees, and

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59 assisted living facility fees, through July 31, 2009, amount to  
60 approximately \$570,000, and

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

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

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

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

86 Section 2. The sum of \$650,000 is appropriated from the  
87 General Revenue Fund to the Department of Health for the relief

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88 of Yvonne Morton for injuries and damages sustained as a result  
89 of the negligence of an employee of the Department of Health.

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

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

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