

By the Committee on Judiciary; and Senator Galvano

590-03421-17

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1 A bill to be entitled

2 An act for the relief of Sean McNamee and his parents,
3 Todd McNamee and Jody McNamee, by the School Board of
4 Hillsborough County; providing for an appropriation to
5 the Sean R. McNamee Irrevocable Trust as compensation
6 for injuries and damages sustained by Sean McNamee as
7 a result of the negligence of employees of the School
8 Board of Hillsborough County; providing a limitation
9 on the payment of attorney fees; providing an
10 effective date.

11
12 WHEREAS, on October 9, 2013, Sean McNamee, a minor student
13 and member of the football team at Wharton High School,
14 participated in a warm-up session as part of organized team
15 activities at the start of football practice, and

16 WHEREAS, during a passing drill, Sean McNamee lost his
17 balance when he came into contact with another player, and while
18 falling to the ground, struck his head on a paint machine used
19 to line the practice field which had been improperly left in the
20 practice area, and

21 WHEREAS, Sean McNamee appeared confused, disoriented, and
22 not "symptom free" while in the training and locker rooms for
23 evaluation and treatment by the school's athletic trainer, and

24 WHEREAS, the coaching and training staff did not properly
25 evaluate or assess Sean McNamee for a concussion or head injury,
26 left him unattended, did not call 911 or summon a physician or
27 ambulance, and did not immediately notify Sean's parents of the
28 possibility that their son had sustained a brain injury, and

29 WHEREAS, the coaching and training staff responsible for

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30 the supervision and welfare of participating student athletes
31 should have known of the severity of the injury experienced by
32 Sean McNamee and were responsible for ensuring he received
33 appropriate and timely evaluation and attention, and

34 WHEREAS, after being left alone for an extended time, Sean
35 McNamee drove himself home, endangering himself and others, and
36 there his sister found him incoherent and acting strangely, and
37 she notified their father, Todd McNamee, who rushed him to the
38 emergency department at Florida Hospital Tampa, and

39 WHEREAS, physicians at Florida Hospital Tampa diagnosed
40 Sean McNamee with a traumatic brain injury from a depressed
41 temporal bone fracture with epidural and subdural hemorrhage
42 which required multiple brain surgeries, including emergency
43 decompression craniotomy, a 9-day induced coma, and
44 reconstruction with a titanium plate permanently inserted into
45 his fractured skull, and

46 WHEREAS, as a result of the traumatic brain injury and
47 delayed treatment, Sean McNamee suffers from permanent and
48 significant changes in his cognitive functions and from an
49 epileptic seizure disorder with breakthrough episodes, and

50 WHEREAS, Sean McNamee and his parents Todd McNamee and Jody
51 McNamee brought suit against the School Board of Hillsborough
52 County in the Circuit Court of the Thirteenth Judicial Circuit
53 in and for Hillsborough County, Case No 14-CA-009239, and the
54 parties entered into a court-ordered mediation on September 14,
55 2015, and

56 WHEREAS, the School Board of Hillsborough County approved a
57 settlement in the amount of \$2 million, paid the statutory limit
58 of \$300,000 under s. 768.28, Florida Statutes, and further

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59 agreed to support the passage of this claim bill in the amount
60 of \$1.7 million for the unpaid portion of the settlement, NOW,
61 THEREFORE,
62

63 Be It Enacted by the Legislature of the State of Florida:
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65 Section 1. The facts stated in the preamble to this act are
66 found and declared to be true.

67 Section 2. The School Board of Hillsborough County is
68 authorized and directed to appropriate from funds not otherwise
69 encumbered and to draw a warrant in the sum of \$1.7 million
70 payable to the Sean R. McNamee Irrevocable Trust as compensation
71 for injuries and damages sustained as a result of the negligence
72 of employees of the School Board of Hillsborough County.

73 Section 3. The amount paid by the School Board of
74 Hillsborough County under s. 768.28, Florida Statutes, and the
75 amount awarded under this act are intended to provide the sole
76 compensation for all present and future claims arising out of
77 the factual situation described in this act which resulted in
78 injuries to Sean McNamee and damages to Todd McNamee and Jody
79 McNamee. The total amount paid for attorney fees relating to
80 this claim may not exceed 25 percent of the amount awarded under
81 this act.

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