

By the Committee on Judiciary; and Senator Martin

590-02449-26

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A bill to be entitled

An act for the relief of the Estate of M.N. by the Broward County Sheriff's Office; providing an appropriation to compensate the estate for injuries sustained by M.N. and her subsequent death as a result of the negligence of the Broward County Sheriff's Office; providing a limitation on compensation and the payment of attorney fees; providing an effective date.

WHEREAS, Keshia Walsh and Christopher Nevarez were parents to M.N., born on April 20, 2016, and to D.N., born on February 2, 2012, and

WHEREAS, on August 19, 2016, Ms. Walsh brought M.N., then 3 months old, to Broward Health Medical Center reporting that M.N. had fallen from a couch and sustained a black eye while they were at the home of Juan Santos, where Ms. Walsh and M.N. were living at the time, and

WHEREAS, Mr. Nevarez and Ms. Walsh brought M.N. to a follow-up pediatrician appointment pursuant to follow-up care instructions from Broward Health Medical Center, and

WHEREAS, at the follow-up visit, Mr. Nevarez questioned the doctor as to whether M.N. could have sustained her injuries as the result of a fall, and the doctor responded that it was possible, and

WHEREAS, on October 13, 2016, Ms. Walsh brought 5-month-old M.N. to Northwest Medical Center, in Broward County, with a fever and intermittent leg pain, and

WHEREAS, diagnostic imaging revealed that M.N. had multiple fractures in her upper and lower extremities which were in

590-02449-26

202618c1

30 different stages of healing, including fractures to her left
31 tibia, left fibula, and left radius, which Ms. Walsh had no
32 explanation for, and

33 WHEREAS, the treating physician consulted with a pediatric
34 orthopedic specialist who, upon reviewing M.N.'s diagnostic
35 imaging, advised that the fractures appeared to be non-
36 accidental and recommended that her injuries be reported to the
37 Florida Abuse Hotline overseen by the Department of Children and
38 Families, and

39 WHEREAS, a report was made to the Florida Abuse Hotline and
40 was assigned to the Broward County Sheriff's Office (BSO), the
41 agency responsible for child protective investigations in
42 Broward County, and

43 WHEREAS, a BSO child protective investigator (CPI)
44 responded to the hospital, observed the injuries, learned that
45 they were unexplained and occurred under the care of Ms. Walsh
46 while living with Mr. Santos, and noted that Ms. Walsh had
47 previously taken M.N. to multiple facilities for treatment for
48 various injuries, including the prior black eye, and

49 WHEREAS, Mr. Nevarez had been an active parent in M.N.'s
50 life; however, Ms. Walsh cut off contact with Mr. Nevarez in
51 mid-September 2016, and refused to tell him where she and M.N.
52 were living, and

53 WHEREAS, Mr. Nevarez was the non-offending parent, meaning
54 he had no role in causing or failing to prevent M.N.'s injuries,
55 Mr. Nevarez was required to be the first person contacted by the
56 BSO during the investigation, and, if contact was initially
57 unsuccessful, the BSO was required to make daily attempts to
58 contact Mr. Nevarez, and

590-02449-26

202618c1

59 WHEREAS, the BSO failed to contact Mr. Navarez immediately,
60 failed to notify him that M.N. had multiple unexplained
61 fractures in different stages of healing, failed to immediately
62 place M.N. with Mr. Nevarez for her protection, and failed to
63 make daily attempts to contact Mr. Nevarez, and

64 WHEREAS, when an abuse investigation is initiated at a
65 hospital emergency room, the CPI is required to consult with the
66 attending physician to determine whether the injury is the
67 result of maltreatment and immediately contact the Child
68 Protective Team (CPT) in person or by phone to discuss all
69 reports of fractures in a child of any age; however, the BSO
70 failed to consult with the attending physician and failed to
71 contact the CPT from the hospital, and

72 WHEREAS, during an abuse investigation, the BSO's
73 assessment of the safety and perceived needs of the child and
74 family must include a face-to-face interview with the child,
75 other siblings, parents, and other adults in the household;
76 however, the BSO failed to interview Mr. Santos, and

77 WHEREAS, the BSO is required to review the prior criminal
78 history of parents and caregivers and complete a criminal
79 history check within 24 hours of an individual's identity and
80 presence in the home becoming known to the investigator;
81 however, the BSO failed to complete a background check on Mr.
82 Santos, and

83 WHEREAS, despite the BSO's actual knowledge of a pattern of
84 unexplained injuries to M.N., M.N.'s three unexplained diagnosed
85 fractures, and the CPI's personal observations of bruising
86 around M.N.'s eye and discoloration on M.N.'s left wrist, the
87 CPI did not suspect abuse, found that there was no present

590-02449-26

202618c1

88 danger or threat to M.N., allowed M.N. to be discharged from the
89 hospital into Ms. Walsh's custody, and implemented a Safety Plan
90 for M.N. to remain in Ms. Walsh's care with no further
91 investigation into how M.N. sustained her injuries, and

92 WHEREAS, on October 18, 2016, the BSO supervisor instructed
93 the CPI to obtain the medical file from M.N.'s August hospital
94 visit, obtain collateral information from neighbors, and refer
95 daycare services to Ms. Walsh, and

96 WHEREAS, the CPI's chronological case notes do not reflect
97 any activity on the investigation into M.N.'s injuries after
98 these directives, and

99 WHEREAS, the BSO also failed to review M.N.'s medical file,
100 have M.N. seen by CPT, interview any third-parties, including
101 family, friends, and neighbors, and ensure M.N. was enrolled in
102 daycare, and

103 WHEREAS, Ann McClain, M.N.'s paternal grandmother, with
104 whom M.N. and Ms. Walsh previously resided until Ms. Walsh
105 abruptly left the home in mid-September 2016 with M.N.,
106 maintained some contact via text messages with Ms. Walsh, but
107 could not discover where Ms. Walsh and M.N. were living, and

108 WHEREAS, Mr. Nevarez repeatedly tried to see M.N. and find
109 out where she was living by texting Ms. Walsh, going to Ms.
110 Walsh's place of employment, contacting Ms. Walsh's relatives
111 and friends, and going to D.N.'s daycare, but Ms. Walsh ignored
112 his repeated requests to see M.N., and

113 WHEREAS, on October 24, 2016, while the BSO's child
114 protective investigation was still open, M.N. sustained life-
115 threatening injuries including a parietal skull fracture, brain
116 and spinal cord trauma, retinal hemorrhages, and two femur

590-02449-26

202618c1

117 fractures due to abuse while in the care of Ms. Walsh and Mr.
118 Santos, and

119 WHEREAS, M.N. was transported to the hospital and declared
120 brain dead that same day, placed on life support, and died on
121 October 28, 2016, and

122 WHEREAS, the BSO closed its investigation into M.N.'s abuse
123 on July 17, 2017, with verified findings of bone fractures,
124 internal injuries, threatened harm, and death, and

125 WHEREAS, the BSO placed D.N. in Mr. Nevarez's care,
126 implemented a safety plan preventing Ms. Walsh from having
127 contact with D.N., and Ms. Walsh's parental rights to D.N. were
128 terminated on June 20, 2018, at the BSO's request, and

129 WHEREAS, but for the BSO's negligence in failing to
130 reasonably investigate allegations of abuse of M.N., and failing
131 to remove M.N. from Ms. Walsh and Mr. Santos' care, the injuries
132 sustained during the BSO's investigation and M.N.'s death would
133 not have occurred, and

134 WHEREAS, in August 2023, the case was tried in the 17th
135 Judicial Circuit Court of Broward County, and

136 WHEREAS, the BSO admitted negligence at trial, and the jury
137 found that M.N.'s death and Mr. Nevarez's loss were due to BSO's
138 failure to conduct a thorough child protective investigation and
139 ensure M.N.'s safety, and

140 WHEREAS, the court awarded \$4.5 million to Mr. Nevarez,
141 M.N.'s non-offending father, for his pain and suffering, of
142 which \$2.61 million, or 58 percent of the fault, was attributed
143 to BSO, and

144 WHEREAS, the BSO has paid \$110,000 and Broward County has
145 paid \$90,000 for claims against the County related to CPT, which

590-02449-26

202618c1

146 has exhausted the sovereign immunity limits set forth in s.
147 768.28, Florida Statutes, and

148 WHEREAS, the court entered a cost judgment awarding taxable
149 costs in the amount of \$88,258.50 to the Estate of M.N., to be
150 paid by the BSO, and

151 WHEREAS, the Estate of M.N. is responsible for payment of
152 attorney fees and all remaining costs and expenses relating to
153 this claim, subject to the limitations set forth in this act,
154 and

155 WHEREAS, the sum of \$2,588,258.50, representing the
156 judgment from the verdict against the BSO in the amount of \$2.61
157 million plus the cost judgment entered against the BSO in the
158 amount of \$88,258.50, less BSO's payment of \$110,000 in
159 satisfaction of its portion of the sovereign immunity limits,
160 remains unpaid by the BSO, NOW, THEREFORE,

161
162 Be It Enacted by the Legislature of the State of Florida:
163

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

166 Section 2. The Broward County Sheriff's Office is
167 authorized and directed to appropriate from funds not otherwise
168 encumbered and to draw a warrant in the sum of \$2,588,258.50
169 payable to the Estate of M.N. as compensation for injuries and
170 damages sustained.

171 Section 3. The amount paid by the Broward County Sheriff's
172 Office pursuant to s. 768.28, Florida Statutes, and the amount
173 awarded under this act are intended to provide the sole
174 compensation for all present and future claims arising out of

590-02449-26

202618c1

175 the factual situation described in this act which resulted in
176 injuries and damages to the Estate of M.N. The total amount paid
177 for attorney fees relating to this claim may not exceed 25
178 percent of the total amount awarded under this act.

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