

By the Committee on Finance and Taxation; and Senator Posey

314-2007-04

1                                   A bill to be entitled  
2           An act relating to the Indian River County  
3           School Board; providing for the relief of Ryan  
4           Besancon, a minor, by and through his parents  
5           and natural guardians, Mark and Laurie  
6           Besancon, for injuries sustained due to the  
7           negligence of the Indian River County School  
8           Board; providing for the use of such funds;  
9           providing for restrictions on expenditure of  
10          the funds; providing an effective date.

11  
12           WHEREAS, on January 25, 1999, 5-year-old Ryan Besancon  
13          was a passenger on a school bus owned by the Indian River  
14          County School Board and operated by its employee, and

15           WHEREAS, the school bus driver failed to stop at a stop  
16          sign located at the intersection of 45th Street and 66th  
17          Avenue in Vero Beach, Florida, causing the bus to collide with  
18          an eighteen-wheel tractor-trailer and resulting in serious and  
19          life-threatening injuries to Ryan Besancon and numerous other  
20          children on the school bus, as well as two deaths, and

21           WHEREAS, as the result of an extensive investigation by  
22          state and federal officials, it was determined that the school  
23          bus driver was solely responsible for the crash, and

24           WHEREAS, on January 26, 1999, Ryan's pediatrician noted  
25          that Ryan's symptoms included two skull fractures, a complaint  
26          of tilting of his head, apparent sixth-nerve palsy, and a  
27          prominent right adrenal gland, and

28           WHEREAS, on November 3, 1999, Ryan Besancon presented  
29          to Dr. Gary M. Weiss with symptoms that included almost daily  
30          headaches, neck pain, significant pain in bilateral frontal  
31          areas, nausea, dizziness, occasional blurred vision, loss of

1 memory, a 10-percent hearing loss, and some decreased  
2 concentration, and

3           WHEREAS, between December 8 and December 12, 1999, a  
4 psychologist tested Ryan's neuropsychological functioning and  
5 found that, although Ryan functioned intellectually in the  
6 average range, he was experiencing significantly impaired  
7 short-term memory functioning, in both verbal and visual  
8 memory; he exhibited deficits in the area of attention and  
9 concentration skills; he had significantly impaired  
10 construction ability and perceptual processing, as well as  
11 impaired short-term visual memory; he was experiencing a  
12 significant level of psychopathology, consistent with a  
13 diagnosis of Adjustment Disorder with Mixed Emotional  
14 Features; and he had significant amounts of both depression  
15 and anxiety, and

16           WHEREAS, the psychologist concluded that Ryan's  
17 "impairments are directly related to his motor vehicle  
18 accident," and

19           WHEREAS, a pediatric neurologist who examined him on  
20 November 2, November 20, and November 27, 2001, found that a  
21 motor exam revealed difficulty hopping on the right foot, that  
22 rapid alternate movements were remarkable for mild synkinesia,  
23 that there had been a base of skull fracture, and that Ryan  
24 was sleep-deprived, and

25           WHEREAS, an EEG revealed a partial seizure disorder,  
26 and Ryan has continued under the care of a neurologist, has  
27 shown little change in his symptoms, and requires prescription  
28 medication to control his brain seizure activity, and

29           WHEREAS, as a result of the injuries he sustained in  
30 the accident, Ryan had to repeat 1 year of elementary school,  
31

1 has had great difficulty learning to read, and remains  
2 emotionally and intellectually disadvantaged, and

3 WHEREAS, as the result of extensive mediation conducted  
4 in the fall of 2002, Mark and Laurie Besancon entered into a  
5 settlement agreement with the Indian River County School  
6 District, and

7 WHEREAS, the terms of the settlement provided for  
8 payment of the sum of \$70,000 as compensation for Ryan's  
9 injuries, upon the passage of a claim bill authorizing such a  
10 payment, which is a necessary prerequisite to the school  
11 board's compensating Ryan because the maximum payments allowed  
12 under section 768.28, Florida Statutes, have already been made  
13 to other parties injured in the same accident, and

14 WHEREAS, the attorneys representing the Besancons have  
15 waived all attorney's fees in order that a greater portion of  
16 the settlement funds might benefit Ryan, NOW, THEREFORE,

17

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

19

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

22 Section 2. The Indian River County School Board is  
23 authorized and directed to appropriate from funds of the  
24 school board not otherwise appropriated and to draw a warrant  
25 in the amount of \$70,000, payable after July 1, 2004, to Mark  
26 and Laurie Besancon, as parents and natural guardians of Ryan  
27 Besancon, a minor, to be placed in the guardianship account of  
28 Ryan Besancon, to compensate him for injuries and damages  
29 sustained as a result of the negligence of the Indian River  
30 County School Board. Such funds are to be deposited into a  
31 guardianship account for the exclusive use and benefit of Ryan

1 Besancon. It is the intent of the Legislature that no funds  
2 exceeding \$5,000 per calendar year appropriated herein  
3 subsequently be spent, or any obligation thereof incurred by  
4 the guardian, without prior order of the circuit court.

5 Section 3. This act shall take effect upon becoming a  
6 law.

7  
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9 COMMITTEE SUBSTITUTE FOR  
10 SB 20

11 The CS made the following changes:

12 Establishes a guardianship account by which expenses in excess  
13 of \$5,000 per calendar year on behalf of the minor would  
14 require court approval and makes technical corrections to the  
15 date of disbursement and the proper party as respondent.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31