

HB 0265

2004

1 A bill to be entitled

2 An act for the relief of Minouche Noel, a minor, and Jean
3 and Flora Noel, parents and natural guardians of Minouche
4 Noel; providing an appropriation to compensate Minouche
5 Noel, a minor, and Jean and Flora Noel, parents and
6 natural guardians of Minouche Noel, individually, for
7 injuries and damages sustained due to the negligence of
8 Children's Medical Services of the former Department of
9 Health and Rehabilitative Services; providing for the use
10 of funds; providing for reversion of funds to the state;
11 providing an effective date.

12
13 WHEREAS, Minouche Noel was born on February 15, 1988, and
14 soon after was diagnosed as having "a possible meningocele,
15 questionable other lesion, with spina bifida," and

16 WHEREAS, on July 15, 1988, Minouche Noel underwent surgery
17 and, following the surgery and throughout her hospital stay,
18 seemed able to move her legs, and

19 WHEREAS, from January 1989 until May 1989, Minouche Noel's
20 parents repeatedly sought help from the doctors and staff at the
21 Children's Medical Services clinic because of her increasing
22 difficulty in walking, and

23 WHEREAS, on May 16, 1989, the same doctor who originally
24 operated on Minouche Noel's spine operated again, and, after
25 that operation, Minouche Noel never walked again, and

26 WHEREAS, at trial, it was found that the first operation on
27 Minouche Noel's spine had not been necessary and that the
28 surgeon had performed the surgery below the minimum acceptable
29 standard of care and had caused Minouche Noel to lose all
30 function in her legs and bladder, and

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31 WHEREAS, the jury found that Children's Medical Services
 32 had been negligent and that the negligence constituted 100
 33 percent of the legal cause of injury or damage to Minouche Noel,
 34 and

35 WHEREAS, on March 25, 1999, the jury awarded damages in the
 36 amount of \$6,500,000 to Minouche Noel, a minor, and damages in
 37 the amount of \$2,000,000 to Jean and Flora Noel, parents and
 38 natural guardians of Minouche Noel, and

39 WHEREAS, \$200,000 has been paid in accordance with the
 40 provisions of s. 768.28, Florida Statutes, NOW, THEREFORE,

41
 42 Be It Enacted by the Legislature of the State of Florida:

43
 44 Section 1. The facts stated in the preamble to this act
 45 are found and declared to be true.

46 Section 2. There is appropriated from the General Revenue
 47 Fund to the Department of Health, as successor to the Department
 48 of Health and Rehabilitative Services, the sum of \$6,500,000 to
 49 be paid to Jean and Flora Noel, as parents and legal guardians
 50 of Minouche Noel, a minor, for the benefit of Minouche Noel, as
 51 relief for injuries and damages sustained. After payment of
 52 statutory fees, costs, outstanding medical liens, and other
 53 immediate needs, the remaining funds shall be placed into a
 54 special needs trust created for the use and benefit of Minouche
 55 Noel. Any funds remaining in the special needs trust upon the
 56 death of Minouche Noel, after the payment of any outstanding
 57 Medicaid liens, shall revert to the General Revenue Fund of the
 58 State of Florida.

59 Section 3. There is appropriated from the General Revenue
 60 Fund to the Department of Health, as successor to the Department

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61 of Health and Rehabilitative Services, the sum of \$2,000,000 for
62 the relief of Jean and Flora Noel, individually, as relief for
63 injuries and damages sustained.

64 Section 4. The Chief Financial Officer is directed to draw
65 a warrant in favor of Jean and Flora Noel, as parents and legal
66 guardians of Minouche Noel, a minor, in the sum of \$6,500,000
67 for the benefit of Minouche Noel, minor child of Jean and Flora
68 Noel, upon funds in the State Treasury to the credit of the
69 Department of Health, and the Chief Financial Officer is
70 directed to pay the same out of such funds in the State Treasury
71 not otherwise appropriated.

72 Section 5. The Chief Financial Officer is directed to draw
73 a warrant in favor of Jean and Flora Noel, individually, in the
74 sum of \$2,000,000 upon funds in the State Treasury to the credit
75 of the Department of Health, and the Chief Financial Officer is
76 directed to pay the same out of such funds in the State Treasury
77 not otherwise appropriated.

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