

HB 831

2004
CS

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to the Indian River County School Board;
8 providing for the relief of Ryan Besancon, a minor, by and
9 through his parents and natural guardians, Mark and Laurie
10 Besancon, for injuries sustained due to the negligence of
11 the Indian River County School Board; providing for the
12 use of such funds; providing for restrictions on the
13 expenditure of funds; providing an effective date.

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

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

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

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

31 WHEREAS, on November 3, 1999, Ryan Besancon presented to
32 Dr. Gary M. Weiss with symptoms that included almost daily
33 headaches, neck pain, significant pain in bilateral frontal
34 areas, nausea, dizziness, occasional blurred vision, loss of
35 memory, a 10-percent hearing loss, and some decreased
36 concentration, and

37 WHEREAS, between December 8 and December 12, 1999, a
38 psychologist tested Ryan's neuropsychological functioning and
39 found that, although Ryan functioned intellectually in the
40 average range, he was experiencing significantly impaired short-
41 term memory functioning, in both verbal and visual memory; he
42 exhibited deficits in the area of attention and concentration
43 skills; he had significantly impaired construction ability and
44 perceptual processing, as well as impaired short-term visual
45 memory; he was experiencing a significant level of
46 psychopathology, consistent with a diagnosis of Adjustment
47 Disorder with Mixed Emotional Features; and he had significant
48 amounts of both depression and anxiety, and

49 WHEREAS, the psychologist concluded that Ryan's
50 "impairments are directly related to his motor vehicle
51 accident," and

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

58 WHEREAS, an EEG revealed a partial seizure disorder, and
59 Ryan has continued under the care of a neurologist, has shown
60 little change in his symptoms, and requires prescription
61 medication to control his brain seizure activity, and

62 WHEREAS, as a result of the injuries he sustained in the
63 accident, Ryan had to repeat 1 year of elementary school, has
64 had great difficulty learning to read, and remains emotionally
65 and intellectually disadvantaged, and

66 WHEREAS, as the result of extensive mediation conducted in
67 the fall of 2002, Mark and Laurie Besancon entered into a
68 settlement agreement with the Indian River County School
69 District, and

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

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

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

82

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

85 Section 2. The Indian River County School Board is
86 authorized and directed to appropriate from funds of the school
87 board not otherwise appropriated and to draw a warrant in the
88 amount of \$70,000, payable after July 1, 2004, to Mark and
89 Laurie Besancon, as parents and natural guardians of Ryan
90 Besancon, a minor, for injuries and damages sustained by Ryan
91 Besancon due to the negligence of the Indian River County School
92 Board. Such funds are to be deposited into a guardianship
93 account for the exclusive use and benefit of Ryan Besancon. It
94 is the intent of the Legislature that no funds exceeding \$5,000
95 per calendar year appropriated herein subsequently be spent, or
96 any obligation thereof incurred by the guardian, without prior
97 order of the circuit court.

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