Florida Senate - 2007

By the Committee on Health Regulation; and Senator Deutch

588-2388-07

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1	A bill to be entitled
2	An act relating to Memorial Healthcare System
3	of Broward, Inc., d/b/a Memorial Regional
4	Hospital; providing for the relief of Shakima
5	Brown and Janaria Miller, her minor child, to
6	compensate them for injuries sustained by
7	Janaria Miller as a result of the negligence of
8	employees of the hospital; providing an
9	appropriation; providing conditions for
10	payment; providing an effective date.
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12	WHEREAS, on December 13 and 14, 2002, Janaria Miller
13	suffered fetal distress for more than $3-1/2$ hours and, as a
14	result, sustained permanent and irreversible brain damage, and
15	WHEREAS, doctors at the hospital had ordered that
16	nurses oversee 24-hour monitoring of Shakima Brown, Janaria's
17	mother, during her labor and that the nurses immediately
18	report to Ms. Brown's doctor any signs of abnormal fetal heart
19	rate, and
20	WHEREAS, beginning at approximately 11:57 p.m. on
21	December 13, 2002, the fetal monitor strips depicted dangerous
22	drops in Janaria's heart rate, and the late decelerations and
23	drops in the fetal heart rate continued for several hours into
24	the early morning of December 14, and
25	WHEREAS, despite the doctor's order to call him, the
26	nurses failed to advise a physician of the fetal distress and,
27	instead, acknowledged the alert and turned it off, and
28	WHEREAS, in addition, the nurses failed to initiate
29	necessary intrauterine resuscitative measures, and
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1	WHEREAS, even after physicians were finally notified,
2	the nursing staff failed to timely carry out the orders
3	provided by the physician, and
4	WHEREAS, as a result of the nurses' failure to take
5	appropriate measures during her birth, Janaria presently
6	suffers from permanent and irreversible brain damage causing
7	partial paralysis, seizures, delayed cognitive impairment,
8	development, and speech, and
9	WHEREAS, she also has deficits in reasoning,
10	decisionmaking, and expressive and respective language, and
11	WHEREAS, Janaria has a significant permanent functional
12	impairment rating and acute functional decline, resulting in
13	total dependence on others; will require lifelong attendant
14	care; and will be unable to participate in gainful employment,
15	and
16	WHEREAS, suit was brought in the Broward County Circuit
17	Court, a settlement was reached, and, on December 13, 2006,
18	the court entered a consent judgment in favor of Shakima
19	Brown, individually, and on behalf of Janaria Miller, in the
20	amount of \$500,000, and
21	WHEREAS, the hospital has paid to the plaintiff the sum
22	of \$200,000, pursuant to the statutory limits of liability set
23	forth in s. 768.28, Florida Statutes, leaving the sum of
24	\$300,000 unpaid, NOW, THEREFORE,
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26	Be It Enacted by the Legislature of the State of Florida:
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28	Section 1. The facts stated in the preamble to this
29	act are found and declared to be true.
30	Section 2. The Memorial Healthcare System of Broward,
31	Inc., d/b/a Memorial Regional Hospital, is authorized and
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1	<u>directed to appropriate the sum of \$300,000 from funds not</u>
2	<u>otherwise appropriated and to draw a warrant payable to</u>
3	<u>Shakima Brown, parent and legal guardian of Janaria Miller, to</u>
4	be placed in a special needs trust created for the exclusive
5	<u>use and benefit of Janaria Miller, a minor, to compensate</u>
б	Janaria Miller for injuries and damages sustained. Upon the
7	<u>death of Janaria Miller, the trust balance shall revert to the</u>
8	hospital.
9	Section 3. This award is intended to provide the sole
10	compensation for any and all present and future claims arising
11	out of the factual situation in connection with the injury to
12	the claimant. Not more than 25 percent of the award may be
13	paid by the claimant for attorney's fees, lobbying fees,
14	costs, or other similar expenses.
15	Section 4. This act shall take effect upon becoming a
16	law.
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18	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
19	Senate Bill 504
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21	The committee substitute provides that the award is intended to provide the sole compensation for claims arising out of the
22	factual situation in connection with the injury to the claimant. The committee substitute restricts attorney's fees,
23	lobbying fees, costs, or other similar expenses to no more than 25 percent of the amount awarded.
24	than 25 percent of the amount awarded.
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