

By Senator Deutch

30-00139-08

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1 A bill to be entitled

2 An act relating to Memorial Healthcare System of Broward,
3 Inc., d/b/a Memorial Regional Hospital; providing for the
4 relief of Janaria Miller, a minor child, to compensate her
5 for injuries sustained as a result of the negligence of
6 employees of the hospital; providing an appropriation;
7 providing a limitation on the payment of fees and costs;
8 providing an effective date.

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10 WHEREAS, on December 13 and 14, 2002, Janaria Miller
11 suffered fetal distress for more than 3 ½ hours and, as a result,
12 sustained permanent and irreversible brain damage, and

13 WHEREAS, doctors at the hospital had ordered that nurses
14 oversee 24-hour monitoring of Shakima Brown, Janaria's mother,
15 during her labor and that the nurses immediately report to Ms.
16 Brown's doctor any signs of abnormal fetal heart rate, and

17 WHEREAS, beginning at approximately 11:57 p.m. on December
18 13, 2002, the fetal monitor strips depicted dangerous drops in
19 Janaria's heart rate, and the late decelerations and drops in the
20 fetal heart rate continued for several hours into the early
21 morning of December 14, and

22 WHEREAS, despite the doctor's order to call him, the nurses
23 failed to advise a physician of the fetal distress and, instead,
24 acknowledged the alert and turned it off, and

25 WHEREAS, in addition, the nurses failed to initiate
26 necessary intrauterine resuscitative measures, and

27 WHEREAS, even after physicians were finally notified, the
28 nursing staff failed to timely carry out the orders provided by
29 the physician, and

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30 WHEREAS, as a result of the nurses' failure to take
31 appropriate measures during her birth, Janaria presently suffers
32 from permanent and irreversible brain damage causing partial
33 paralysis, seizures, and delayed cognitive impairment,
34 development, and speech, and

35 WHEREAS, she also has deficits in reasoning, decisionmaking,
36 and expressive and respective language, and

37 WHEREAS, Janaria has a significant permanent functional
38 impairment rating and acute functional decline, resulting in
39 total dependence on others; will require lifelong attendant care;
40 and will be unable to participate in gainful employment, and

41 WHEREAS, suit was brought in the Broward County Circuit
42 Court, a settlement was reached, and, on December 13, 2006, the
43 court entered a consent judgment in favor of Shakima Brown,
44 individually, and on behalf of Janaria Miller, in the amount of
45 \$500,000, and

46 WHEREAS, the hospital has paid to the plaintiff the sum of
47 \$200,000, pursuant to the statutory limits of liability set forth
48 in s. 768.28, Florida Statutes, leaving the sum of \$300,000
49 unpaid, NOW, THEREFORE,

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

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

55 Section 2. The Memorial Healthcare System of Broward, Inc.,
56 d/b/a Memorial Regional Hospital, is authorized and directed to
57 appropriate the sum of \$300,000 from funds not otherwise
58 appropriated and to draw a warrant payable to Shakima Brown,

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59 parent and legal guardian of Janaria Miller, to be placed in a
60 special needs trust created for the exclusive use and benefit of
61 Janaria Miller, a minor, to compensate Janaria Miller for
62 injuries and damages sustained. Upon the death of Janaria Miller,
63 the trust balance shall revert to Memorial Regional Hospital.

64 Section 3. This award is intended to provide the sole
65 compensation for all present and future claims arising out of the
66 factual situation that resulted in the injury to Janaria Miller
67 described in this act. The total amount paid for attorney's fees,
68 lobbying fees, costs, and other similar expenses relating to this
69 claim may not exceed 25 percent of the amount awarded under this
70 act.

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