

By Senator Dean

3-00186-08

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1 A bill to be entitled

2 An act for the relief of Tyler Giblin, a minor, by and
3 through Gina and Mark Giblin, parents of Tyler Giblin;
4 providing for an appropriation by the Marion County
5 Hospital District to compensate Tyler for injuries
6 sustained as a result of the negligence of the district;
7 providing for the use of funds; providing for the
8 reversion of funds to the state; providing a limitation on
9 the payment of fees and costs; providing an effective
10 date.

11
12 WHEREAS, Gina Giblin, age 22, obtained prenatal obstetrical
13 care from Rasiklal Nagda, M.D., from May 3, 2004, through
14 December 14, 2004, the day Dr. Nagda delivered Tyler Giblin, a
15 full-term baby boy and the son of Gina and Mark Giblin, at Munroe
16 Regional Medical Center in Ocala, a full-service hospital
17 operated by Munroe Regional Health System, Inc., and leased from
18 the Marion County Hospital District, and

19 WHEREAS, Ms. Giblin had undergone two fetal ultrasounds
20 during her pregnancy, the first on August 10, 2004, and the
21 second prior to delivery, both of which were misinterpreted and
22 reported to the Giblins as being without abnormalities despite
23 the fact that the fetus had a severely deformed heart, and

24 WHEREAS, Dr. Nagda delivered Tyler Giblin by emergency
25 cesarean section because of fetal distress as evidenced by a
26 fetal heart rate in the 70's, significantly below the normal 120
27 to 160 beats per minute, with newborn Apgar scores of 9 and 9,
28 and a system assessment by the hospital nursing staff which
29 wrongly concluded that Tyler did not have a heart murmur, and

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30 WHEREAS, upon initial examination on December 14, Tyler
31 Giblin's pediatrician, Yves-Lande Pierre, M.D., noted that Tyler
32 had a Grade II heart murmur but took no action, and

33 WHEREAS, on the following day, December 15, Dr. Pierre
34 concluded that Tyler had a Grade III murmur and subsequently
35 ordered four extremity blood pressures to be performed, which
36 were incorrectly taken and misinterpreted by nursing staff, and a
37 chest X ray that was interpreted and documented as within normal
38 limits by radiologist Kerry B. Raduns, M.D., who stated that his
39 assessment of the heart and thoracic cavity was limited due to
40 the baby's position in the X ray, and

41 WHEREAS, a cardiology consultation was scheduled for
42 December 22, 2004, at Shands Hospital in Gainesville following
43 Tyler's discharge, and

44 WHEREAS, in the early morning of December 16, 2004, Tyler
45 was crying and grunting, found to be cyanotic with oxygen
46 saturation levels of 70 to 80 percent, decompensated and found to
47 have a base excess of 6.6, was started on Prostin VR, intubated,
48 placed on a ventilator, and transferred to Shands Hospital, and

49 WHEREAS, Tyler was transferred to Miami Children's Hospital
50 on December 22, 2004, and underwent the open heart Norwood
51 procedure for a hypoplastic left heart ventricle and other
52 significant congenital heart disease, but, because of the delay
53 in the diagnosis of his heart condition, was found to have a
54 heart so damaged as to require a heart transplant, as well as to
55 have suffered from anoxic brain injury due to the cyanotic event
56 of December 16, and

57 WHEREAS, Tyler was transferred back to Shands Hospital where
58 he waited for a heart to become available, and subsequently

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59 | underwent cardiac transplant on June 3, 2005, and

60 | WHEREAS, due to the anoxic brain injury, Tyler will remain
61 | totally incapacitated for the remainder of his life, and

62 | WHEREAS, due to the negligent failure to correctly diagnose
63 | their son's congenital heart defect both prior to and after his
64 | birth and because Tyler suffered from severe anoxic damage to his
65 | heart and brain leading to the need for a heart transplant and to
66 | brain injury, Gina and Mark Giblin, on behalf of their son Tyler
67 | and individually, brought suit against the Munroe Regional Health
68 | System, Inc., Munroe Regional Medical Center, Inc., and the
69 | Marion County Hospital District, as well as Dr. Yves-Lande Pierre
70 | and Marion Pediatrics, and

71 | WHEREAS, defendant Munroe Regional Health System, Inc., on
72 | behalf of the Munroe Regional Medical Center and the Marion
73 | County Hospital District, agreed to a consent judgment in the
74 | amount of \$900,000, of which \$200,000 has been paid to Gina and
75 | Mark Giblin pursuant to the limits of liability set forth in s.
76 | 768.28, Florida Statutes, and the remainder is conditioned upon
77 | the passage of a claim bill by the Legislature in the amount of
78 | \$700,000, which is to be placed in a special needs trust created
79 | for the benefit of Tyler Giblin, NOW, THEREFORE,

80 |

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 are
84 | found and declared to be true.

85 | Section 2. The Marion County Hospital District is
86 | authorized and directed to appropriate from district funds not
87 | otherwise encumbered and draw a warrant in the sum of \$700,000,

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88 payable to Gina and Mark Giblin, parents and legal guardians of
89 Tyler Giblin, as compensation for injuries and damages sustained
90 by Tyler due to the negligence of the district, which funds shall
91 be placed in a special needs trust created for the use and
92 benefit of Tyler Giblin, as agreed to by the parties in a consent
93 judgment. Any funds remaining in the trust upon the death of
94 Tyler Giblin shall revert to the General Revenue Fund.

95 Section 3. Any amount paid by the Marion County Hospital
96 District pursuant to the waiver of sovereign immunity permitted
97 under s. 768.28, Florida Statutes, and this award are intended to
98 provide the sole compensation for all present and future claims
99 against the district arising out of the factual situation
100 described in the preamble to this act which resulted in injuries
101 and damages to Tyler Giblin and Gina and Mark Giblin. The total
102 amount paid for attorney's fees, lobbying fees, costs, and other
103 similar expenses relating to this claim may not exceed 25 percent
104 of the amount awarded under section 2 of this act.

105 Section 4. This act shall take effect upon becoming law.