

By the Committee on Health Regulation; and Senator Dean

588-07045-08

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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 Munroe Regional  
5 Health System, Inc., to compensate Tyler for injuries  
6 sustained as a result of the negligence of the hospital;  
7 providing for the use of funds; providing a limitation on  
8 the payment of fees and costs; providing for payment of  
9 unreimbursed medical costs to the Agency for Health Care  
10 Administration; providing an effective 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, of which 75 percent is to be placed in a special needs  
79 | trust created 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. Munroe Regional Health System, Inc., is  
86 | authorized and directed to appropriate from its 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 hospital, and 75 percent of  
91 such funds shall be placed in a special needs trust created for  
92 the use and benefit of Tyler Giblin, as agreed to by the parties  
93 in a consent judgment.

94 Section 3. Any amount paid by Monroe Regional Health  
95 System, Inc., pursuant to the waiver of sovereign immunity  
96 permitted under s. 768.28, Florida Statutes, and this award are  
97 intended to provide the sole compensation for all present and  
98 future claims against the hospital arising out of the factual  
99 situation described in the preamble to this act. The total amount  
100 paid for attorney's fees, lobbying fees, costs, and other similar  
101 expenses relating to this claim may not exceed 25 percent of the  
102 amount awarded under section 2 of this act.

103 Section 4. The governmental entity responsible for payment  
104 of the warrant shall pay to the Agency for Health Care  
105 Administration the amount due under s. 409.910, Florida Statutes,  
106 prior to disbursing any funds to the claimants. The amount due  
107 the agency shall be equal to all unreimbursed medical payments  
108 paid by Medicaid up to the date upon which this act becomes law.

109 Section 5. This act shall take effect upon becoming a law.