

1 A bill to be entitled

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

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

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

25 WHEREAS, Dr. Nagda delivered Tyler Giblin by emergency
26 cesarean section because of fetal distress as evidenced by a
27 fetal heart rate in the 70's, significantly below the normal 120
28 to 160 beats per minute, with newborn Apgar scores of 9 and 9,

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29 | and a system assessment by the hospital nursing staff which
30 | wrongly concluded that Tyler Giblin did not have a heart murmur,
31 | and

32 | WHEREAS, upon initial examination on December 14, 2004,
33 | Tyler Giblin's pediatrician, Yves-Lande Pierre, M.D., noted that
34 | Tyler Giblin had a Grade II heart murmur but took no action, and

35 | WHEREAS, on the following day, December 15, 2004, Dr.
36 | Pierre concluded that Tyler Giblin had a Grade III heart murmur
37 | and subsequently ordered four extremity blood pressure readings
38 | to be performed and ordered a chest X ray, and

39 | WHEREAS, the blood pressure readings were incorrectly
40 | administered and misinterpreted by nursing staff and the chest X
41 | ray was interpreted and documented as being within normal limits
42 | by radiologist Kerry B. Raduns, M.D., who stated that his
43 | assessment of the heart and thoracic cavity was limited due to
44 | the baby's position in the X ray, and

45 | WHEREAS, a cardiology consultation was scheduled for
46 | December 22, 2004, at Shands Hospital in Gainesville following
47 | Tyler Giblin's discharge, and

48 | WHEREAS, in the early morning of December 16, 2004, Tyler
49 | Giblin was crying and grunting, found to be cyanotic with oxygen
50 | saturation levels of 70 to 80 percent, had a decompensated
51 | heart, and was found to have a base excess of 6.6, and

52 | WHEREAS, consequently, Tyler Giblin was started on Prostin
53 | VR, intubated, placed on a ventilator, and transferred to Shands
54 | Hospital, and

55 | WHEREAS, Tyler Giblin was transferred to Miami Children's
56 | Hospital on December 22, 2004, and underwent the open-heart

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57 Norwood procedure for a hypoplastic left heart ventricle and
58 other significant congenital heart disease, and

59 WHEREAS, however, because of the delay in the diagnosis of
60 his heart condition, the damage to Tyler Giblin's heart was
61 found to be so extensive as to require a heart transplant, and

62 WHEREAS, it was also determined that Tyler Giblin had
63 suffered from anoxic brain injury due to the cyanotic event of
64 December 16, 2004, and

65 WHEREAS, Tyler Giblin was transferred back to Shands
66 Hospital where he waited for a heart to become available and
67 subsequently underwent cardiac transplant on June 3, 2005, and

68 WHEREAS, due to the anoxic brain injury, Tyler Giblin will
69 remain totally incapacitated for the remainder of his life, and

70 WHEREAS, due to the negligent failure to correctly diagnose
71 their son's congenital heart defect both prior to and after his
72 birth and because Tyler Giblin suffered from severe anoxic
73 damage to his heart and brain leading to the need for a heart
74 transplant and to brain injury, Gina and Mark Giblin, on behalf
75 of their son, Tyler Giblin, and individually, brought suit
76 against the Munroe Regional Health System, Inc., Munroe Regional
77 Medical Center, Inc., and the Marion County Hospital District,
78 as well as Dr. Yves-Lande Pierre and Marion Pediatrics, and

79 WHEREAS, defendant Munroe Regional Health System, Inc., on
80 behalf of the Munroe Regional Medical Center and the Marion
81 County Hospital District, agreed to a consent judgment in the
82 amount of \$900,000, of which \$200,000 has been paid to Gina and
83 Mark Giblin pursuant to the limits of liability set forth in s.
84 768.28, Florida Statutes, and the remainder of which is

85 | conditioned upon the passage of a claim bill by the Legislature
 86 | in the amount of \$700,000, which is to be placed in a special
 87 | needs trust created for the benefit of Tyler Giblin, NOW,
 88 | THEREFORE,

89 |
 90 | Be It Enacted by the Legislature of the State of Florida:

91 |
 92 | Section 1. The facts stated in the preamble to this act
 93 | are found and declared to be true.

94 | Section 2. The Marion County Hospital District is
 95 | authorized and directed to appropriate from funds of the
 96 | district not otherwise encumbered and to draw a warrant in the
 97 | sum of \$700,000, payable to Gina Giblin and Mark Giblin, parents
 98 | and legal guardians of Tyler Giblin, as compensation for
 99 | injuries and damages sustained by Tyler Giblin due to the
 100 | negligence of the Marion County Hospital District, which funds
 101 | shall be placed in a special needs trust created for the use and
 102 | benefit of Tyler Giblin, as agreed to by the parties in a
 103 | consent judgment. Any funds remaining in the trust upon the
 104 | death of Tyler Giblin shall revert to the General Revenue Fund.

105 | Section 3. Any amount paid by the Marion County Hospital
 106 | District pursuant to the waiver of sovereign immunity permitted
 107 | under s. 768.28, Florida Statutes, and this award are intended
 108 | to provide the sole compensation for all present and future
 109 | claims against the Marion County Hospital District arising out
 110 | of the factual situation described in the preamble to this act
 111 | which resulted in injuries and damages to Tyler Giblin and Gina
 112 | and Mark Giblin. The total amount paid for attorney's fees,

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113 lobbying fees, costs, and other similar expenses relating to
114 this claim may not exceed 25 percent of the amount awarded under
115 section 2 of this act.

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