

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  
16 Munroe 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

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29 | wrongly concluded that Tyler did not have a heart murmur, and  
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  
37 | a chest X ray that was interpreted and documented as within  
38 | normal limits by radiologist Kerry B. Raduns, M.D., who stated  
39 | that his assessment of the heart and thoracic cavity was limited  
40 | due to 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  
47 | to have a base excess of 6.6, was started on Prostin VR,  
48 | intubated, placed on a ventilator, and transferred to Shands  
49 | Hospital, and

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

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57 of December 16, and

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

60 subsequently underwent cardiac transplant on June 3, 2005, and

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

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

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

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

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

86           Section 2. Munroe Regional Health System, Inc., is  
87 authorized and directed to appropriate from its funds not  
88 otherwise encumbered and draw a warrant in the sum of \$700,000,  
89 payable to Gina and Mark GIBLIN, parents and legal guardians of  
90 Tyler GIBLIN, as compensation for injuries and damages sustained  
91 by Tyler due to the negligence of the hospital, and 75 percent  
92 of such funds shall be placed in a special needs trust created  
93 for the use and benefit of Tyler GIBLIN, as agreed to by the  
94 parties in a consent judgment.

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

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

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