

HB 179

2011

1 A bill to be entitled
2 An act for the relief of Stephen and Meredith Kirby,
3 parents and natural guardians of their daughter, Harper
4 Kirby, by the University of South Florida; providing for
5 an appropriation to compensate Stephen and Meredith Kirby,
6 parents and natural guardians of Harper Kirby, for damages
7 sustained due to the negligence of an employee of the
8 University of South Florida; providing a limitation on the
9 payment of attorney's fees and costs; providing an
10 effective date.

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12 WHEREAS, Stephen and Meredith Kirby are carriers of the
13 cystic fibrosis gene, and

14 WHEREAS, in 2006 the Kirbys desired to have a second child,
15 and

16 WHEREAS, before conceiving a second child, the Kirbys
17 sought genetics counseling on October 18, 2006, from a physician
18 at the University of South Florida to assess their risks of
19 having a child with cystic fibrosis, and

20 WHEREAS, the physician informed Mr. and Mrs. Kirby that
21 they were not at risk and their second child would not be born
22 with cystic fibrosis, and

23 WHEREAS, based on the physician's assertion that the Kirbys
24 were not at risk for conceiving a child that has cystic
25 fibrosis, Mr. and Mrs. Kirby chose to conceive a second child,
26 who was born on August 22, 2007, and

27 WHEREAS, newborn screening tests revealed that the Kirbys'
28 new baby, Harper Kirby, had cystic fibrosis, and

29 WHEREAS, Harper currently requires medical care and
 30 treatment for cystic fibrosis and will require such care and
 31 treatment for the rest of her life, and

32 WHEREAS, Mr. and Mrs. Kirby filed a medical negligence
 33 lawsuit for wrongful birth on December 5, 2008, in the Circuit
 34 Court of the Thirteenth Judicial District, Hillsborough County,
 35 case number 08-CA-027501, against the Board of Trustees of the
 36 University of South Florida for damages related to the
 37 extraordinary expenses of raising a child who has cystic
 38 fibrosis, and

39 WHEREAS, on July 20, 2010, the parties mediated the case
 40 and reached a settlement of all claims, and

41 WHEREAS, the University of South Florida has paid Stephen
 42 and Meredith Kirby \$200,000 pursuant to the statutory limits of
 43 liability set forth in s. 768.28, Florida Statutes, and

44 WHEREAS, the University of South Florida and Stephen and
 45 Meredith Kirby agreed to jointly seek a claim bill in the amount
 46 of \$1.8 million in favor of Stephen and Meredith Kirby to
 47 provide for compensation for the medical care and treatment
 48 associated with raising and caring for a child who has cystic
 49 fibrosis, NOW, THEREFORE,

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. The facts stated in the preamble to this act
 54 are found and declared to be true.

55 Section 2. The University of South Florida is authorized
 56 and directed to appropriate from funds of the university not

HB 179

2011

57 otherwise appropriated and to draw a warrant in the sum of \$1.8
58 million, payable to Stephen and Meredith Kirby, parents and
59 guardians of Harper Kirby, a minor, as compensation for the
60 extraordinary expenses of raising and caring for Harper Kirby, a
61 child who has cystic fibrosis, due to the negligence of the
62 University of South Florida.

63 Section 3. The amount paid by the University of South
64 Florida pursuant to s. 768.28, Florida Statutes, and the amount
65 awarded under this act are intended to provide the sole
66 compensation for all present and future claims arising out of
67 the factual situation described in this act which resulted in
68 the wrongful birth of Harper Kirby. The total amount paid for
69 attorney's fees, lobbying fees, costs, and other similar
70 expenses relating to this claim may not exceed 25 percent of the
71 amount awarded under this act.

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