

By Senator Norman

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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,  
4 Harper Kirby, by the University of South Florida;  
5 providing for an appropriation to compensate Stephen  
6 and Meredith Kirby, parents and natural guardians of  
7 Harper Kirby, for damages sustained by the negligence  
8 of an employee of the University of South Florida;  
9 providing a limitation on the payment of attorney's  
10 fees and costs; providing an effective date.

11  
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

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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 are  
54 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  
57 otherwise appropriated and to draw a warrant in the sum of \$1.8  
58 million, payable to Stephen and Meredith Kirby, parents and

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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.