

By Senator Rodriguez

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1 A bill to be entitled

2 An act for the relief of Vonshelle Brothers,
3 individually, and as the natural parent and legal
4 guardian of Iyonna Hughey; providing an appropriation
5 to compensate her and her daughter for injuries and
6 damages sustained as a result of the alleged
7 negligence of the Brevard County Health Department, an
8 agency of the Department of Health; providing that
9 certain payments and the appropriation satisfy all
10 present and future claims related to the alleged
11 negligent acts; providing a limitation on the payment
12 of compensation, fees, and costs; providing an
13 effective date.

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15 WHEREAS, on March 16, 2010, Vonshelle Brothers visited a
16 location of the Brevard County Health Department for her initial
17 prenatal visit, during which a complete obstetrical and
18 gynecological exam was conducted, including a Pap smear, and

19 WHEREAS, the lab results of the exam were reported to be
20 within normal limits with the exception of the Pap smear, which
21 had tested negative for intraepithelial lesion or malignancy,
22 but showed cellular changes consistent with herpes simplex virus
23 and bacterial vaginosis, and

24 WHEREAS, despite the results of the Pap smear, the Brevard
25 County Health Department did not report the results to Vonshelle
26 Brothers and did not acknowledge, record, or otherwise note the
27 herpes simplex virus or the bacterial vaginosis in her prenatal
28 records, and

29 WHEREAS, Vonshelle Brothers continued to receive treatment
30 from the Brevard County Health Department through the duration
31 of her pregnancy until the birth of her daughter, Iyonna Hughey,
32 on October 14, 2010, at the Wuesthoff Medical Center, and both

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33 were discharged from the hospital 2 days later in good
34 condition, and

35 WHEREAS, on November 1, 2010, Vonshelle Brothers brought
36 Iyonna to the emergency room at Wuesthoff Medical Center citing
37 Iyonna's lack of eating, weak condition, and fever, and

38 WHEREAS, a lumbar puncture was performed and cerebral
39 spinal fluid was collected which initially suggested that Iyonna
40 had meningitis, which prompted her transfer to the Arnold Palmer
41 Hospital for Children for further evaluation and management, and

42 WHEREAS, on November 3, 2010, the final results of the
43 cerebral spinal fluid collection were reported, and the fluid
44 had tested positive for herpes simplex type 2, and

45 WHEREAS, as a result of her diagnosis, Iyonna continues to
46 experience significant developmental delay and neurologic
47 impairment related to the herpes meningoencephalitis and has
48 required continued treatment, including physical therapy,
49 occupational and speech therapy, and neurologic and
50 ophthalmologic care, and

51 WHEREAS, Iyonna's condition requires her to be under the
52 constant care and supervision of Vonshelle Brothers and has
53 placed the child at heightened risk for the development of
54 seizures and epilepsy, and

55 WHEREAS, the Brevard County Health Department had a duty to
56 provide a reasonable level of care to Vonshelle Brothers and
57 Iyonna Hughey but that duty was allegedly breached by the
58 department failing to disclose the presence of the herpes
59 simplex virus in Vonshelle Brothers and to order proper
60 treatment of the virus, which eventually resulted in Iyonna's
61 diagnosis, and

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62 WHEREAS, in June 2016, a final order was entered approving
63 a settlement in the sum of \$3.2 million between Vonshelle
64 Brothers, individually, and as natural parent and legal guardian
65 of Iyonna Hughey, and the Brevard County Health Department to
66 settle all claims arising out of the factual situation described
67 in this act, and

68 WHEREAS, the Department of Health has paid \$200,000 to Ms.
69 Brothers under the statutory limits of liability set forth in s.
70 768.28, Florida Statutes, which has left \$3 million as the
71 remaining balance of the settlement agreement, NOW, THEREFORE,

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

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

77 Section 2. The sum of \$3 million is appropriated from the
78 General Revenue Fund to the Department of Health for the relief
79 of Vonshelle Brothers, individually, and as natural parent and
80 legal guardian of Iyonna Hughey, to compensate Vonshelle
81 Brothers and Iyonna Hughey for injuries and damages sustained.

82 Section 3. The Chief Financial Officer is directed to draw
83 a warrant in favor of Vonshelle Brothers, individually and as
84 natural parent and legal guardian of Iyonna Hughey, in the sum
85 of \$3 million upon funds of the Department of Health in the
86 State Treasury and to pay the same out of such funds in the
87 State Treasury.

88 Section 4. The amount paid by the Department of Health
89 pursuant to s. 768.28, Florida Statutes, and the amount awarded
90 under this act are intended to provide the sole compensation for

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91 all present and future claims arising out of the factual
92 situation described in this act which resulted in injuries and
93 damages to Vonshelle Brothers and Iyonna Hughey. The total
94 amount paid for attorney fees, lobbying fees, costs, and similar
95 expenses relating to this claim may not exceed 25 percent of the
96 amount awarded under this act.

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