

By Senator Rodriguez

37-00065-18

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1                                   A bill to be entitled  
2       An act for the relief of Vonshelle Brothers on behalf  
3       of her daughter Iyonna Hughey; providing an  
4       appropriation to compensate Iyonna Hughey for injuries  
5       and damages sustained as a result of the alleged  
6       negligence of the Brevard County Health Department, an  
7       agency of the Department of Health; providing that  
8       certain payments and the appropriation satisfy all  
9       present and future claims related to the alleged  
10      negligent acts; providing a limitation on the payment  
11      of fees and costs; providing an effective date.  
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13           WHEREAS, on March 16, 2010, Vonshelle Brothers visited a  
14      location of the Brevard County Health Department for her initial  
15      prenatal visit, during which a complete obstetrical and  
16      gynecological exam was conducted, including a Pap smear, and

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

22           WHEREAS, despite the results of the Pap smear, the Brevard  
23      County Health Department did not report the results to Vonshelle  
24      Brothers, and

25           WHEREAS, Vonshelle Brothers continued to receive treatment  
26      from the Brevard County Health Department through the duration  
27      of her pregnancy until the birth of her daughter, Iyonna Hughey,  
28      on October 14, 2010, at the Wuesthoff Medical Center, and both  
29      were discharged from the hospital 2 days later in good

37-00065-18

201842\_\_

30 condition, and

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

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

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

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

47 WHEREAS, Iyonna's condition requires her to be under the  
48 constant care and supervision of Vonshelle Brothers, and

49 WHEREAS, the Brevard County Health Department had a duty to  
50 provide a reasonable level of care to Vonshelle Brothers and  
51 Iyonna, but that duty was allegedly breached by the department's  
52 failure to disclose the presence of the herpes simplex virus in  
53 Vonshelle Brothers and to order proper treatment of the virus,  
54 which eventually resulted in Iyonna's medical condition, and

55 WHEREAS, in June 2016, a final order was entered approving  
56 a settlement in the sum of \$3.2 million between Vonshelle  
57 Brothers, individually and as parent and legal guardian of  
58 Iyonna, and the Brevard County Health Department to settle all

37-00065-18

201842\_\_

59 claims arising out of the factual situation described in this  
60 act, and

61 WHEREAS, the Department of Health has paid \$200,000 to  
62 Vonshelle Brothers under the statutory limits of liability set  
63 forth in s. 768.28, Florida Statutes, and the parties have  
64 agreed to a reduced settlement in the amount of \$1 million, NOW,  
65 THEREFORE,

66

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

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

71 Section 2. The sum of \$1 million is appropriated from the  
72 General Revenue Fund to the Department of Health for the  
73 Supplemental Care Trust for the Benefit of Iyonna Hughey or  
74 other special needs trust for the exclusive use and benefit of  
75 Iyonna Hughey.

76 Section 3. The Chief Financial Officer is directed to draw  
77 a warrant in favor of the Supplemental Care Trust for the  
78 Benefit of Iyonna Hughey or other special needs trust for the  
79 exclusive use and benefit of Iyonna Hughey in the sum of \$1  
80 million upon funds of the Department of Health in the State  
81 Treasury and to pay the same out of such funds in the State  
82 Treasury.

83 Section 4. The amount paid by the Department of Health  
84 pursuant to s. 768.28, Florida Statutes, and the amount awarded  
85 under this act are intended to provide the sole compensation for  
86 all present and future claims arising out of the factual  
87 situation described in this act which resulted in injuries and

37-00065-18

201842\_\_

88 damages to Vonshelle Brothers and Iyonna Hughey. Of the amount  
89 awarded under this act, the total amount paid for attorney fees  
90 may not exceed \$100,000, the total amount paid for lobbying fees  
91 may not exceed \$50,000, and the total amount paid for costs and  
92 other similar expenses relating to this claim may not exceed  
93 \$2,214.

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