

By Senator Diaz

36-00078-21

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1 A bill to be entitled
2 An act for the relief of Jamiyah Mitchell, Latricia
3 Mitchell, and Jerald Mitchell by the South Broward
4 Hospital District; providing an appropriation to
5 compensate them for injuries and damages sustained as
6 a result of the negligence of the South Broward
7 Hospital District; providing a limitation on the
8 payment of attorney fees; providing an effective date.
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10 WHEREAS, on October 8, 2008, Latricia Mitchell, who was
11 pregnant, went to Memorial Hospital West, operated by the South
12 Broward Hospital District, with pain, vaginal bleeding, and
13 contractions, and

14 WHEREAS, fetal monitoring tracings, which began at 4:33
15 p.m., reflected a fetal tachycardia, minimal fetal heart rate
16 variability, and the absence of accelerations, and

17 WHEREAS, at approximately 5:54 p.m., Mrs. Mitchell was
18 admitted to Memorial Hospital West, and

19 WHEREAS, medical records reflect that at 6:29 p.m.,
20 continued fetal tachycardia, minimal fetal heart rate
21 variability, the absence of accelerations, and variable
22 decelerations were present, and

23 WHEREAS, the minimal variability and absence of
24 acceleration observations continued until approximately 8:44
25 p.m., when Jamiyah Mitchell was finally delivered by caesarean
26 section, and

27 WHEREAS, the hospital's records indicate the caesarean
28 section was performed due to a nonreassuring fetal heart rate,
29 and

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30 WHEREAS, upon Jamiyah's birth, there was a presence of
31 meconium-stained fluids, a sign of fetal asphyxiation, and her
32 Apgar score was 3 out of 10, and

33 WHEREAS, Jamiyah suffered a left hemisphere stroke, began
34 having seizures immediately at birth, and was cared for in the
35 neonatal intensive care unit for 7 days after her birth for
36 respiratory distress and seizure activity, and

37 WHEREAS, Jamiyah was also diagnosed with fetal hypoxic-
38 ischemic encephalopathy, and magnetic resonance imaging of her
39 brain at 4 days old showed objective findings of a stroke in the
40 left hemisphere of the brain and a hemorrhage of the occipital
41 horn of the right lateral ventricle, and

42 WHEREAS, today, Jamiyah Mitchell is 11 years old and, while
43 she is able to walk and function in most aspects of everyday
44 life for an average girl her age, she suffers from attention-
45 deficit/hyperactivity disorder and has a learning disability,
46 and

47 WHEREAS, on or about October 10, 2013, Latricia Mitchell
48 and Jerald Mitchell, Mrs. Mitchell's spouse and Jamiyah's
49 father, individually and on behalf of Jamiyah Mitchell, filed a
50 legal action in the Circuit Court of the 17th Judicial Circuit,
51 in and for Broward County, Case No. 14-005044, against the South
52 Broward Hospital District and other parties, alleging, in part,
53 negligence of the district in failing to establish adequate
54 protocols and procedures for the admission, monitoring,
55 evaluation, testing, and referral to medical specialists of
56 mothers presenting with risk factors for fetal distress,
57 including timely caesarean section and appropriate oxygenation
58 and ventilation, and

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59 WHEREAS, on or about July 3, 2019, the Mitchells and the
60 South Broward Hospital District entered into a settlement
61 agreement, and

62 WHEREAS, the settlement agreement provides for the payment
63 of \$200,000 by the South Broward Hospital District to the
64 Mitchells pursuant to the statutory limit under s. 768.28,
65 Florida Statutes; the entry of a consent judgment in the amount
66 of \$995,000 which limits execution to \$795,000; and the South
67 Broward Hospital District's agreement that it supports a claim
68 bill in the amount of \$795,000, NOW, THEREFORE,

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

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

74 Section 2. The South Broward Hospital District is
75 authorized and directed to appropriate from funds not otherwise
76 encumbered and to draw a warrant in the sum of \$795,000 payable
77 to Jamiyah Mitchell, Latricia Mitchell, and Jerald Mitchell as
78 compensation for injuries and damages sustained.

79 Section 3. The amount paid by the South Broward Hospital
80 District pursuant to s. 768.28, Florida Statutes, and the amount
81 awarded under this act are intended to provide the sole
82 compensation for all present and future claims arising out of
83 the factual situation described in this act which resulted in
84 injuries and damages to Jamiyah Mitchell, Latricia Mitchell, and
85 Jerald Mitchell. The total amount paid for attorney fees
86 relating to this claim may not exceed 25 percent of the amount
87 awarded under this act.

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