

By Senator Gruters

23-00242-22

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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 Latricia Mitchell and Jerald Mitchell,
6 individually and as legal guardians of Jamiyah
7 Mitchell, for injuries and damages sustained as a
8 result of the negligence of the South Broward Hospital
9 District; providing a limitation on the payment of
10 compensation and attorney fees; providing an effective
11 date.

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13 WHEREAS, on October 8, 2008, Latricia Mitchell, who was
14 pregnant, went to Memorial Hospital West, operated by the South
15 Broward Hospital District, with pain, vaginal bleeding, and
16 contractions, and

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

20 WHEREAS, at approximately 5:54 p.m., Latricia Mitchell was
21 admitted to Memorial Hospital West, and

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

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

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30 WHEREAS, the hospital's records indicate that the caesarean
31 section was performed due to a nonreassuring fetal heart rate,
32 and

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

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

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

45 WHEREAS, today, Jamiyah is 12 years old and, while she is
46 able to walk and function in most aspects of everyday life for
47 an average girl her age, she suffers from attention-
48 deficit/hyperactivity disorder and has a learning disability,
49 and

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

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59 mothers presenting with risk factors for fetal distress,
60 including timely caesarean section and appropriate oxygenation
61 and ventilation, and

62 WHEREAS, on or about July 3, 2019, Latricia and Jerald
63 Mitchell, individually and as legal guardians of Jamiyah
64 Mitchell, and the South Broward Hospital District entered into a
65 settlement agreement, and

66 WHEREAS, the settlement agreement provides for the payment
67 of \$200,000 by the South Broward Hospital District to Latricia
68 and Jerald Mitchell, individually and as legal guardians of
69 Jamiyah Mitchell, pursuant to the statutory limit under s.
70 768.28, Florida Statutes; the entry of a consent judgment in the
71 amount of \$995,000 which limits execution to \$795,000; and the
72 South Broward Hospital District's agreement that it supports a
73 claim bill in the amount of \$795,000, NOW, THEREFORE,

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

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

79 Section 2. The South Broward Hospital District is
80 authorized and directed to appropriate from funds not otherwise
81 encumbered and to draw a warrant in the sum of \$795,000 payable
82 to Latricia and Jerald Mitchell, individually and as legal
83 guardians of Jamiyah Mitchell, as compensation for injuries and
84 damages sustained.

85 Section 3. The amount paid by the South Broward Hospital
86 District pursuant to s. 768.28, Florida Statutes, and the amount
87 awarded under this act are intended to provide the sole

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88 compensation for all present and future claims arising out of
89 the factual situation described in this act which resulted in
90 injuries and damages to Jamiyah Mitchell, Latricia Mitchell, and
91 Jerald Mitchell. The total amount paid for attorney fees
92 relating to this claim may not exceed 25 percent of the amount
93 awarded under this act.

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