

By the Committee on Judiciary; and Senator Gruters

590-03295-23

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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.

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

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

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

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

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

29 WHEREAS, the hospital's records indicate that the caesarean

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30 section was performed due to a nonreassuring fetal heart rate,  
31 and

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

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

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

44 WHEREAS, Jamiyah is now a teenager and while she is able to  
45 walk and function in most aspects of everyday life in a manner  
46 typical for an average girl her age, she suffers from attention-  
47 deficit/hyperactivity disorder and has a learning disability,  
48 and

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

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59 including timely caesarean section and appropriate oxygenation  
60 and ventilation, and

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

65 WHEREAS, the settlement agreement provides for the payment  
66 of \$200,000, by the South Broward Hospital District to the  
67 Special Needs Trust for the Benefit of Jamiyah Mitchell,  
68 pursuant to the statutory limit under s. 768.28, Florida  
69 Statutes; the entry of a consent judgment in the amount of  
70 \$995,000 which limits execution to \$795,000; and the South  
71 Broward Hospital District's agreement that it supports a claim  
72 bill in the amount of \$795,000, NOW, THEREFORE,  
73 Be It Enacted by the Legislature of the State of Florida:  
74

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

77 Section 2. The South Broward Hospital District is  
78 authorized and directed to appropriate from funds not otherwise  
79 encumbered and to draw a warrant in the sum of \$795,000 payable  
80 to Mikel Taft, as trustee of the Special Needs Trust for the  
81 Benefit of Jamiyah Mitchell, as compensation for injuries and  
82 damages sustained.

83 Section 3. The amount paid by the South Broward Hospital  
84 District pursuant to s. 768.28, Florida Statutes, and the amount  
85 awarded under this act are intended to provide the sole  
86 compensation for all present and future claims arising out of  
87 the factual situation described in this act which resulted in

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88 injuries and damages to Jamiyah Mitchell, Latricia Mitchell, and  
89 Jerald Mitchell. The total amount paid for attorney fees  
90 relating to this claim may not exceed 25 percent of the amount  
91 awarded under this act.

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