

Senate Bill No. 38

An act relating to Memorial Healthcare System of Broward, Inc., d/b/a Memorial Regional Hospital; providing for the relief of Janaria Miller, a minor child, to compensate her for injuries sustained as a result of the negligence of employees of the hospital; providing an appropriation; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on December 13 and 14, 2002, Janaria Miller suffered fetal distress for more than 3 ½ hours and, as a result, sustained permanent and irreversible brain damage, and

WHEREAS, doctors at the hospital had ordered that nurses oversee 24-hour monitoring of Shakima Brown, Janaria's mother, during her labor and that the nurses immediately report to Ms. Brown's doctor any signs of abnormal fetal heart rate, and

WHEREAS, beginning at approximately 11:57 p.m. on December 13, 2002, the fetal monitor strips depicted dangerous drops in Janaria's heart rate, and the late decelerations and drops in the fetal heart rate continued for several hours into the early morning of December 14, and

WHEREAS, despite the doctor's order to call him, the nurses failed to advise a physician of the fetal distress and, instead, acknowledged the alert and turned it off, and

WHEREAS, in addition, the nurses failed to initiate necessary intrauterine resuscitative measures, and

WHEREAS, even after physicians were finally notified, the nursing staff failed to timely carry out the orders provided by the physician, and

WHEREAS, as a result of the nurses' failure to take appropriate measures during her birth, Janaria presently suffers from permanent and irreversible brain damage causing partial paralysis, seizures, and delayed cognitive impairment, development, and speech, and

WHEREAS, she also has deficits in reasoning, decisionmaking, and expressive and respective language, and

WHEREAS, Janaria has a significant permanent functional impairment rating and acute functional decline, resulting in total dependence on others; will require lifelong attendant care; and will be unable to participate in gainful employment, and

WHEREAS, suit was brought in the Broward County Circuit Court, a settlement was reached, and, on December 13, 2006, the court entered a consent judgment in favor of Shakima Brown, individually, and on behalf of Janaria Miller, in the amount of \$500,000, and

WHEREAS, the hospital has paid to the plaintiff the sum of \$200,000, pursuant to the statutory limits of liability set forth in s. 768.28, Florida Statutes, leaving the sum of \$300,000 unpaid, NOW, THEREFORE,

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

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

Section 2. The Memorial Healthcare System of Broward, Inc., d/b/a Memorial Regional Hospital, is authorized and directed to appropriate the sum of \$300,000 from funds not otherwise appropriated and to draw a warrant payable to Shakima Brown, parent and legal guardian of Janaria Miller, to be placed in a special needs trust created for the exclusive use and benefit of Janaria Miller, a minor, to compensate Janaria Miller for injuries and damages sustained. Upon the death of Janaria Miller, the trust balance shall revert to Memorial Regional Hospital.

Section 3. This award is intended to provide the sole compensation for all present and future claims arising out of the factual situation that resulted in the injury to Janaria Miller described in this act. The total amount paid for attorney's fees, lobbying fees, costs, and other similar expenses relating to this claim may not exceed 25 percent of the amount awarded under this act.

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

Approved by the Governor May 19, 2008.

Filed in Office Secretary of State May 19, 2008.