

Committee Substitute for Senate Bill No. 68

An act for the relief of Tyler Giblin, a minor, by and through Gina and Mark Giblin, parents of Tyler Giblin; providing for an appropriation by the Munroe Regional Health System, Inc., to compensate Tyler for injuries sustained as a result of the negligence of the hospital; providing for the use of funds; providing a limitation on the payment of fees and costs; providing for payment of unreimbursed medical costs to the Agency for Health Care Administration; providing an effective date.

WHEREAS, Gina Giblin, age 22, obtained prenatal obstetrical care from Rasiklal Nagda, M.D., from May 3, 2004, through December 14, 2004, the day Dr. Nagda delivered Tyler Giblin, a full-term baby boy and the son of Gina and Mark Giblin, at Munroe Regional Medical Center in Ocala, a full-service hospital operated by Munroe Regional Health System, Inc., and leased from the Marion County Hospital District, and

WHEREAS, Ms. Giblin had undergone two fetal ultrasounds during her pregnancy, the first on August 10, 2004, and the second prior to delivery, both of which were misinterpreted and reported to the Giblins as being without abnormalities despite the fact that the fetus had a severely deformed heart, and

WHEREAS, Dr. Nagda delivered Tyler Giblin by emergency cesarean section because of fetal distress as evidenced by a fetal heart rate in the 70's, significantly below the normal 120 to 160 beats per minute, with newborn Apgar scores of 9 and 9, and a system assessment by the hospital nursing staff which wrongly concluded that Tyler did not have a heart murmur, and

WHEREAS, upon initial examination on December 14, Tyler Giblin's pediatrician, Yves-Lande Pierre, M.D., noted that Tyler had a Grade II heart murmur but took no action, and

WHEREAS, on the following day, December 15, Dr. Pierre concluded that Tyler had a Grade III murmur and subsequently ordered four extremity blood pressures to be performed, which were incorrectly taken and misinterpreted by nursing staff, and a chest X ray that was interpreted and documented as within normal limits by radiologist Kerry B. Raduns, M.D., who stated that his assessment of the heart and thoracic cavity was limited due to the baby's position in the X ray, and

WHEREAS, a cardiology consultation was scheduled for December 22, 2004, at Shands Hospital in Gainesville following Tyler's discharge, and

WHEREAS, in the early morning of December 16, 2004, Tyler was crying and grunting, found to be cyanotic with oxygen saturation levels of 70 to 80 percent, decompensated and found to have a base excess of 6.6, was started on Prostin VR, intubated, placed on a ventilator, and transferred to Shands Hospital, and

WHEREAS, Tyler was transferred to Miami Children's Hospital on December 22, 2004, and underwent the open heart Norwood procedure for a hypoplastic left heart ventricle and other significant congenital heart disease, but, because of the delay in the diagnosis of his heart condition, was found to have a heart so damaged as to require a heart transplant, as well as to have suffered from anoxic brain injury due to the cyanotic event of December 16, and

WHEREAS, Tyler was transferred back to Shands Hospital where he waited for a heart to become available, and subsequently underwent cardiac transplant on June 3, 2005, and

WHEREAS, due to the anoxic brain injury, Tyler will remain totally incapacitated for the remainder of his life, and

WHEREAS, due to the negligent failure to correctly diagnose their son's congenital heart defect both prior to and after his birth and because Tyler suffered from severe anoxic damage to his heart and brain leading to the need for a heart transplant and to brain injury, Gina and Mark Giblin, on behalf of their son Tyler and individually, brought suit against the Munroe Regional Health System, Inc., Munroe Regional Medical Center, Inc., and the Marion County Hospital District, as well as Dr. Yves-Lande Pierre and Marion Pediatrics, and

WHEREAS, defendant Munroe Regional Health System, Inc., on behalf of the Munroe Regional Medical Center and the Marion County Hospital District, agreed to a consent judgment in the amount of \$900,000, of which \$200,000 has been paid to Gina and Mark Giblin pursuant to the limits of liability set forth in s. 768.28, Florida Statutes, and the remainder is conditioned upon the passage of a claim bill by the Legislature in the amount of \$700,000, of which 75 percent is to be placed in a special needs trust created for the benefit of Tyler Giblin, 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. Munroe Regional Health System, Inc., is authorized and directed to appropriate from its funds not otherwise encumbered and draw a warrant in the sum of \$700,000, payable to Gina and Mark Giblin, parents and legal guardians of Tyler Giblin, as compensation for injuries and damages sustained by Tyler due to the negligence of the hospital, and 75 percent of such funds shall be placed in a special needs trust created for the use and benefit of Tyler Giblin, as agreed to by the parties in a consent judgment.

Section 3. Any amount paid by Monroe Regional Health System, Inc., pursuant to the waiver of sovereign immunity permitted under s. 768.28, Florida Statutes, and this award are intended to provide the sole compensation for all present and future claims against the hospital arising out of the factual situation described in the preamble to 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 section 2 of this act.

Section 4. The governmental entity responsible for payment of the warrant shall pay to the Agency for Health Care Administration the amount due under s. 409.910, Florida Statutes, prior to disbursing any funds to the claimants. The amount due the agency shall be equal to all unreimbursed medical payments paid by Medicaid up to the date upon which this act becomes law.

Section 5. 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.