

CHAPTER 2015-215

Committee Substitute for House Bill No. 3543

An act for the relief of Roy Wright and Ashley Wright by the North Brevard County Hospital District; providing for an appropriation to compensate Roy Wright and Ashley Wright, individually and as guardians of Tucker Wright, for injuries and damages sustained by Tucker Wright as a result of the negligence of Parrish Medical Center; providing a limitation on the payment of fees and costs; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act; providing an effective date.

WHEREAS, on July 15, 2009, Ashley Wright, suffering from gestational diabetes, was admitted as a high-risk obstetrical patient at Parrish Medical Center, operated by the North Brevard County Hospital District, in Titusville, Florida, and

WHEREAS, mothers with gestational diabetes are classified as high-risk obstetrical patients because their fetuses tend to be larger than normal and large fetuses are at risk for complications during the birth process, and

WHEREAS, Ashley Wright's care at Parrish Medical Center was provided by Vidya Hate, M.D., an obstetrician, and Cara Starkey, R.N., a midwife, both employees of Parrish Medical Center, and

WHEREAS, on July 16, 2009, Ashley Wright was in labor with her unborn child, Tucker Wright, and Nurse Starkey failed to notify Dr. Hate of the impending delivery as previously instructed and delivered Tucker Wright herself without the presence, supervision, or assistance of Dr. Hate, and

WHEREAS, complications arose during the delivery, and Tucker Wright developed shoulder dystocia, a condition in which the shoulder of a fetus becomes wedged on the mother's pelvic bone as the fetus transits the birth canal, which condition is a known and recognized risk for mothers with gestational diabetes, and

WHEREAS, Nurse Starkey attempted to resolve the shoulder dystocia by performing a McRoberts maneuver and a procedure in which the shoulders of a fetus are gently rotated by hand underneath the shoulders, allowing the shoulders to pass underneath the pelvic bone and out through the birth canal, and

WHEREAS, Nurse Starkey negligently rotated the head of the fetus on the perineum, causing a brachial plexus injury to Tucker Wright which injured his right arm and will limit his activities and future career options, and

WHEREAS, all parties to this claim agree that rotation of the head of a fetus on the perineum is an improper maneuver because rotation of the head

with pressure can stretch and damage the nerves in a fetus's neck which control the use of muscles in the arm, and

WHEREAS, Tucker Wright has undergone two surgeries on his right shoulder and regained some use of his right arm but continues to be challenged with functional deficits that may be permanent, and

WHEREAS, Roy Wright and Ashley Wright have incurred medical expenses on behalf of Tucker Wright in the amount of \$320,016.91 due to the injury caused by the negligence of Parrish Medical Center, and may incur additional expenses for surgeries needed as Tucker Wright grows older, and

WHEREAS, on January 11, 2012, Roy Wright and Ashley Wright, individually and as guardians of Tucker Wright, filed suit against the North Brevard County Hospital District in the Circuit Court for Brevard County, Case No. 05-2012-CA-024060, to recover damages for the injuries sustained by Tucker Wright as a result of the negligence of Parrish Medical Center, and

WHEREAS, the North Brevard County Hospital District, Roy Wright, and Ashley Wright agreed to settle the lawsuit for \$595,000, and

WHEREAS, the North Brevard County Hospital District paid \$200,000 of the settlement pursuant to the statutory limits of liability set forth in s. 768.28, Florida Statutes, and there remains \$395,000 of the settlement unsatisfied, and

WHEREAS, the North Brevard County Hospital District does not oppose passage of this claim bill, 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 North Brevard County Hospital District is authorized and directed to appropriate from funds of the district not otherwise appropriated and to draw a warrant, payable to Roy Wright and Ashley Wright, individually and as guardians for Tucker Wright, for the total amount of \$395,000 as compensation for injuries and damages sustained by Tucker Wright as a result of the negligence of Parrish Medical Center.

Section 3. The total amount paid for attorney 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. The amount paid by the North Brevard County Hospital District pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in the injuries to Tucker Wright.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 11, 2015.

Filed in Office Secretary of State June 11, 2015.