

Senate Bill No. 34

An act relating to the West Volusia Hospital Authority; providing for the relief of Jose Alberto Cruz, Jr., a minor, and his parents and natural guardians, Nelida Cruz and Jose Alberto Cruz, Sr., for injuries and damages caused by the hospital's negligence; specifying use of the funds; providing an effective date.

WHEREAS, Nelida Cruz presented to West Volusia Memorial Hospital in early labor on September 16, 1992, and

WHEREAS, approximately 4 hours later, she was placed on an internal fetal monitor, and Pitocin was administered to her to augment her labor, and

WHEREAS, 6 hours after the Pitocin was initiated, the internal fetal monitor began evidencing prolonged variable decelerations, and the fetus's baseline heart rate changed from 150 to 110 beats per minute, and

WHEREAS, the fetal monitor demonstrated 1-½ hours of ongoing fetal distress, but the nurse never reported the information to the obstetrician, and

WHEREAS, at birth, baby Jose Alberto Cruz, Jr., had Apgar scores of 2 and 4 and had suffered irreparable and permanent brain damage due to hypoxic ischemic encephalopathy from the ongoing fetal distress, and

WHEREAS, a jury trial ensued, and, on the second day of the trial, the West Volusia Hospital Authority agreed to settle for \$2 million, and

WHEREAS, the settlement agreement requires the hospital authority to pay \$200,000 immediately and to pay the balance over a 5-year period in equal annual payments of \$360,000, and

WHEREAS, the payment structure will not involve any tax increase in the West Volusia Hospital Authority Special Taxing District, 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 West Volusia Hospital Authority is directed to compensate Nelida Cruz and Jose Alberto Cruz, Sr., as parents and natural guardians of Jose Alberto Cruz, Jr., a minor, in the amount of \$1,800,000 for injuries and damages caused by the negligence of the hospital, such payment to be made in five equal annual installments of \$360,000 each, out of funds of the West Volusia Hospital Authority Special Taxing District reserve account budgeted for such a purpose. After payment of statutory attorney fees, and costs, the balance shall be paid into the existing Special Needs Trust Fund established for Jose A. Cruz, Jr.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor April 5, 1999.

Filed in Office Secretary of State April 5, 1999.