

Committee Substitute for Senate Bill No. 32

An act for the relief of Sharon Jurgrau, wife of Mark Jurgrau, deceased, and Megan Jurgrau, minor child of Mark and Sharon Jurgrau, by the South Broward Hospital District; providing for an appropriation to compensate them for the death of Mark Jurgrau as a result of the negligence of the South Broward Hospital District; providing for attorney's fees, lobbyist's fees, and costs; providing an effective date.

WHEREAS, in the summer of 1999, Mark Jurgrau, an architect, 38 years of age and a resident of Broward County, underwent medical tests after exhibiting weakness and shortness of breath while engaging in athletic activity, and

WHEREAS, the tests revealed that Mark Jurgrau had a problem with the aortic valve of the heart, and as a result of the diagnosis, he was advised to have surgery to replace the aortic valve, and

WHEREAS, Mark Jurgrau's doctors recommended a surgical procedure known as the "Ross procedure" in which the patient's own pulmonic valve is used to replace the aortic valve, and

WHEREAS, the procedure, commonly used in younger patients, was chosen due to the fact that it is effective for a very long period of time and does not require the patient to take medications subsequent to surgery, and

WHEREAS, the Ross procedure was performed on Mark Jurgrau on September 2, 1999, at Memorial Hospital, part of the South Broward Hospital District, and

WHEREAS, Mark Jurgrau tolerated the procedure well and appeared to be doing fine, and

WHEREAS, the decision to replace Mark Jurgrau's aortic valve was a good decision, the choice of the Ross procedure was a sound choice, and the operation was performed ably and correctly, and

WHEREAS, however, one of the risks of this procedure is the possible occurrence of internal bleeding at the location of the operation, and

WHEREAS, internal bleeding following this procedure does occur from time to time, is easily recognizable and readily treatable, and is not an indication of negligence per se, and

WHEREAS, one of the primary reasons patients are kept in the hospital following this type of surgery is so they can be observed for complications, and

WHEREAS, the negligence in this case occurred in the failure of the employees of Memorial Hospital to provide Mark Jurgrau with appropriate postoperative care, and

WHEREAS, following his operation, the management of Mark Jurgrau's care was entrusted to a nurse, Kathy Kater, ARNP, and

WHEREAS, the surgeon who operated on Mark Jurgrau never saw him again, and Kathy Kater and the other hospital nurses became Mark Jurgrau's health care team, and

WHEREAS, from the time of Mark Jurgrau's operation on September 2, 1999, to the time of his death on September 6, 1999, Mark Jurgrau exhibited signs and symptoms of internal bleeding, and

WHEREAS, in order to monitor for internal bleeding, blood is drawn from a patient daily, and

WHEREAS, when a person is losing blood, laboratory values drop as blood contents are used up, and

WHEREAS, Mark Jurgrau's hematocrit, hemoglobin, and platelets were all dropping, each day registering much lower than the day before, and

WHEREAS, in the 5 days he was in Memorial Hospital, Mark Jurgrau's blood values fell to less than 30 percent of normal, and

WHEREAS, also, in order to determine if blood is accumulating in a patient's chest, X-rays are taken daily and the patient's breathing is monitored daily, and

WHEREAS, Mark Jurgrau's X-rays showed his lungs filling with blood, more each day than the day before, and

WHEREAS, his breathing decreased each day as the portions of his lungs which were full of blood could no longer transfer oxygen, and

WHEREAS, as Mark Jurgrau's blood became depleted and his lungs filled with blood, he became deprived of oxygen, which made him weak, dizzy, and disoriented, as evidenced by the fact that his oxygen saturation fell precipitously, and

WHEREAS, despite the fact that all appropriate tests were administered and all the results of those tests indicated problems, no intervention was ordered based upon Mark Jurgrau's test results, and

WHEREAS, by September 5, 1999, Mark Jurgrau was dying, slowly bleeding to death and drowning in his own blood, and

WHEREAS, as he became disoriented from lack of oxygen, the hospital nurses called Nurse Kater, and

WHEREAS, without coming in to the hospital to observe Mark Jurgrau, Nurse Kater diagnosed him as having a panic attack and, over the telephone, ordered Xanax to be administered to Mr. Jurgrau, and

WHEREAS, on September 6, 1999, Mark Jurgrau's condition became critical, and

WHEREAS, Mark Jurgrau was gasping for air, turning pale and cold, and writhing in pain, and

WHEREAS, Nurse Kater was again contacted, and again, via telephone, Nurse Kater diagnosed Mark Jurgrau as having a panic attack, and

WHEREAS, Mark Jurgrau arrested and a code blue was called, but it was too late, and

WHEREAS, Mark Jurgrau died at the age of 38, leaving his wife of 8 years, Sharon Jurgrau, and a 4-year-old daughter, Megan Jurgrau, and

WHEREAS, upon performing an autopsy, the medical examiner confirmed that Mark Jurgrau died from undiagnosed internal bleeding, and

WHEREAS, the case was also reviewed by a recognized authority in cardiac surgery, Dr. Dudley Johnson, regarded as the father of cardiac surgery and, along with Dr. Michael DeBakey, the co-inventor of the modern coronary bypass operation, and

WHEREAS, Dr. Johnson confirmed that Mark Jurgrau's death was unnecessary and unreasonable, and

WHEREAS, at the time of his death, Mark Jurgrau was in the beginning stages of a very successful career as an architect, and

WHEREAS, based on his age and proven earning potential, economic damages alone were over \$10 million, and

WHEREAS, Mark and Sharon Jurgrau's daughter, Megan Jurgrau, now 11 years of age, has experienced emotional distress as a result of the death of her father, and

WHEREAS, recognizing this as a case involving malpractice and catastrophic damages, the South Broward Hospital District settled the matter, tendering \$200,000 pursuant to the limits of liability established pursuant to section 768.28, Florida Statutes, and agreeing to support a claim bill in the amount of \$500,000, 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 South Broward Hospital District is authorized and directed to appropriate from funds of the district not otherwise appropriated and to draw a warrant in the sum of \$500,000 payable to Sharon Jurgrau, wife of Mark Jurgrau, deceased, as compensation for the death of Mark Jurgrau as a result of the negligence of the South Broward Hospital District. After payment of fees, costs, and authorized expenses, 75 percent of the proceeds recovered through the passage of this act shall be apportioned to Sharon Jurgrau, wife of Mark Jurgrau, and 25 percent of the proceeds recovered through the passage of this act shall be deposited into the guard-

ianship account of Megan Jurgrau, minor child of Mark and Sharon Jurgrau, for the exclusive use and benefit of Megan Jurgrau.

Section 3. Payment for attorney's fees and costs incurred by the claimant's attorneys shall not exceed \$77,781. Payment for the professional services and costs of lobbyists advocating for passage of this claim shall not exceed \$5,000.

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

Approved by the Governor June 12, 2007.

Filed in Office Secretary of State June 12, 2007.