

Committee Substitute for Senate Bill No. 38

An act for the relief of Adam Susser by the North Broward Hospital District; providing for the relief of Adam Susser, a minor, by and through his parents and natural guardians, Judith Susser and Gary Susser; providing for an appropriation to compensate him for injuries and damages sustained as a result of the negligence of the North Broward Hospital District, d.b.a. Coral Springs Medical Center; providing for purchase of an annuity to benefit the special needs trust; providing for payment of attorney's fees, lobbyist's fees, and costs; providing an effective date.

WHEREAS, in July 2000, Gary Susser, a lawyer, and his wife, Judith Susser, a paralegal, were residing in Boca Raton, Florida, and

WHEREAS, prior to her marriage to Gary Susser, Judith Susser was unable to have children, and

WHEREAS, after their marriage, Judith and Gary Susser badly wanted to have children, despite the fact that Judith Susser was 47 years of age, and

WHEREAS, Judith Susser went to a fertility expert and was finally able to become pregnant through in vitro fertilization, and

WHEREAS, prenatal tests revealed that Judith Susser was pregnant with twins, and consequently Judith and Gary Susser were looking forward to the birth of their twin boys, and

WHEREAS, Judith and Gary Susser sought out high-risk pregnancy experts who could guide them through Judith Susser's pregnancy in order to ensure that her pregnancy progressed safely and without complications, and

WHEREAS, Judith Susser kept all of her appointments and complied with all orders by her physicians, and

WHEREAS, at approximately 34 weeks gestation, Judith Susser's membrane on the sac holding Adam Susser ruptured, and

WHEREAS, Gary Susser immediately took his wife to the Coral Springs Medical Center where, on July 6, 2000, she was admitted by her obstetrician's office and where she remained until her discharge on July 12, 2000, and

WHEREAS, during the admission, a high-risk perinatal expert, Dr. Christine Edwards, as well as Dr. Kerry Kuhn and Dr. Carrie Greenspan, Dr. Kuhn's partner, also saw Judith Susser, and

WHEREAS, despite a nonreassuring fetal heart pattern and despite the fact that the nurses kept having difficulties getting the fetal monitoring to perform properly, the pregnancy was allowed to continue for 4 and ½ days, with the nurses never reporting the abnormal test results or the difficulties they were having with the fetal monitoring equipment to the physicians, and

WHEREAS, two days into Judith Susser's labor, a biophysical profile was ordered to be performed by Dr. Edwards, and

WHEREAS, that biophysical profile yielded abnormal indications and, although they were not reported by the nurses, the obstetricians were aware of the abnormal results, and

WHEREAS, despite this, the obstetricians allowed Judith Susser's labor to continue, and

WHEREAS, finally, on the early morning of the fifth day of labor, Judith Susser was taken to the operating room for delivery, and

WHEREAS, the physician in charge was insistent on performing a vaginal delivery despite all the obvious needs for an emergency cesarean section, and

WHEREAS, when Dr. Kuhn reached the delivery room, he asked for fetal monitoring to be commenced and the nurses indicated that they could not bring the fetal monitoring machine into the delivery room because they did not have a fetal monitor for twins available, and

WHEREAS, Gary Susser then asked the nurses to get the fetal monitoring machine from the room that Judith Susser had previously been in for 4 days, which demand was also made by Dr. Kuhn, and the nurses said they could not remove the monitoring machine from the wall, and

WHEREAS, for the next hour there was only manual monitoring of Adam Susser, and Dr. Kuhn continued to wait, and

WHEREAS, on July 10, 2000, Adam Susser was born by vaginal delivery, and

WHEREAS, tragically, as a result of the extraordinary and egregious malpractice by the physicians and nurses at the Coral Springs Medical Center, Adam Susser was born severely depressed and oxygen-deprived, which led to severe brain damage, and

WHEREAS, Adam Susser cannot walk and will never be able to walk, cannot sit up on his own, cannot use his hands or arms, is cortically blind, needs to be fed through a feeding tube, and is severely mentally and physically impaired, and

WHEREAS, though by all accounts Adam Susser will have a normal life expectancy, which means that he should live into his 70's, Adam Susser will require medical care and treatment for the remainder of his life, and

WHEREAS, the negligent care administered by the Coral Springs Medical Center formed the basis of legal action against the North Broward Hospital District, d.b.a. Coral Springs Medical Center, and

WHEREAS, the matter was settled prior to trial with the overall settlement amount being \$9.8 million, and

WHEREAS, the hospital's private insurer, the Zurich Insurance Company, paid the claimants the amount of \$3,831,218.04 on behalf of the North Broward Hospital District, and

WHEREAS, the North Broward Hospital District paid \$200,000 for the benefit of Adam Susser pursuant to the limits of liability set forth in section 768.28, Florida Statutes, and

WHEREAS, in addition, the North Broward Hospital District fully supports the passage of a claim bill for the amount of \$668,781.96, 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 Broward Hospital District is authorized and directed to appropriate from funds of the hospital district not otherwise appropriated and to draw a warrant in the sum of \$668,781.96, plus the interest that has accrued on those funds in the account maintained by the district, to purchase an annuity benefiting the special needs trust established for the care and benefit of Adam Susser, minor child of Judith Susser and Gary Susser, as compensation for injuries and damages sustained as a result of the negligence of the North Broward Hospital District.

Section 3. Payment for attorney's fees and costs incurred by the claimant's attorneys shall not exceed \$108,764. Payment for the professional services and costs of lobbyists advocating for passage of this claim shall not exceed \$6,688.

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.