

## Committee Substitute for Senate Bill No. 56

An act for the relief of Katherine Selva, a minor, by and through Maria Alcobar, as parent and natural guardian of Katherine Selva, by the City of Miami; providing for an appropriation to compensate her for injuries sustained as a result of the negligence of the City of Miami; providing conditions for payment; providing for payment of attorney's fees, costs, and lobbying fees; providing an effective date.

WHEREAS, On October 19, 1999, Katherine Selva, then 4 years of age, was living with her mother and father, Maria Alcobar and Aldo Selva, who were married at that time, sharing the surname Selva, and living together with their two children, Katherine Selva and her younger sister, Karenlyn Selva, and

WHEREAS, in the early morning hours of October 19, 1999, Katherine Selva began having seizure activity, and

WHEREAS, prior to October 19, 1999, Katherine Selva had been diagnosed with a seizure disorder from infancy which occurred following a DPT immunization at approximately 2 months of age, and

WHEREAS, Katherine Selva had multiple epileptic episodes that required several hospitalizations; however, through the administration of appropriate medication, Katherine's condition was controlled and she was able to live an active life, and

WHEREAS, Katherine Selva had been attending prekindergarten and, according to physicians and therapists, was only mildly delayed as a result of her seizure disorder, and

WHEREAS, after Katherine Selva started seizing on October 19, 1999, her parents called 911 for paramedic assistance, and

WHEREAS, a rescue vehicle initially reported to the Selva residence at approximately 1:28 a.m. and found Katherine Selva having active seizures, and

WHEREAS, two agents of the City of Miami, fire rescue personnel Ernesto Vila and Gustavo Busse, arrived and advised that they found Katherine Selva actively seizing on a bed, and

WHEREAS, the two fire rescue personnel administered 2 milligrams of Valium and requested a second purportedly better-equipped vehicle to transport Katherine Selva to Jackson Memorial Hospital at approximately 1:30 a.m., and

WHEREAS, Rescue Ten, which included paramedic Henry Rodriguez and one to three others, subsequently arrived at approximately 1:43 a.m., and

WHEREAS, reports and testimony, albeit of highly questionable reliability, indicated that Henry Rodriguez or other Rescue Ten personnel found Katherine Selva in a state resembling catatonia or still actively seizing, and

WHEREAS, however, rescue personnel claimed to have been unable to obtain symptoms, and

WHEREAS, these reports and testimony indicate that Rescue Ten personnel transported Katherine Selva to Jackson Memorial Hospital immediately upon arrival at the Selva residence or shortly thereafter, and

WHEREAS, during transport, one or more of the rescue personnel claim to have made several attempts to start an intravenous drip, but to no avail, and

WHEREAS, this claim notwithstanding, rescue personnel did successfully administer at least 1 additional milligram of Valium intravenously, and

WHEREAS, critically however, the only oxygen the rescue personnel administered to Katherine Selva during transport was via standard mask instead of a valve mask, and the rescue personnel did not have, and consequently did not use, an oxygen-saturation monitor, and

WHEREAS, moreover, it was clear that the rescue personnel did not watch Katherine Selva's oxygen intake as they should have, and

WHEREAS, upon arrival at the hospital, Katherine Selva was cyanotic, or oxygen starved, with her skin appearing blue in color, and

WHEREAS, Katherine Selva's oxygen-saturation rates were determined upon admission to be a mere 35 percent with a heart rate of 210 beats per minute, and

WHEREAS, immediately, hospital personnel treated Katherine Selva with Ativan and used a ventilation mask to oxygenate her in preparation for intubation, and

WHEREAS, Katherine Selva's oxygen-saturation rates improved dramatically to 85 percent and her heart rate decreased to 169 beats per minute following initial treatment, and

WHEREAS, despite heroic efforts by hospital personnel, Katherine Selva had already suffered permanent brain damage as a direct result of lack of oxygen, and

WHEREAS, the City of Miami's rescue personnel owed a duty to Katherine Selva to respond appropriately and render medical treatment in accordance with the generally accepted standard of care, and

WHEREAS, the city's rescue personnel, notably one or more paramedics in Rescue Ten, breached this duty by failing to respond in a timely and appropriate fashion and by failing specifically to treat the oxygen-starved condition of Katherine Selva en route to the hospital, and

WHEREAS, this breach caused or substantially contributed to the devastating injuries suffered by Katherine Selva, which are uncontested as being permanent and irreversible, and

WHEREAS, this breach also caused Katherine Selva to incur past and future expenses, including, without limitation, hospitalization, daily medical treatment and nursing care, transportation, tutoring or teaching, and child care or supervision, for which expenses Aldo Selva and Maria Alcobar have been and will be responsible, and

WHEREAS, it has been determined that Medicaid alone has paid nearly \$900,000 for medical expenses incurred for the care and treatment of the incapacitated minor child and that the Agency for Health Care Administration, through its contract representative, Health Management Systems, Inc., has filed or will file a Medicaid casualty lien associated with these payments, and

WHEREAS, these economic losses to Katherine Selva are permanent and continuing, and

WHEREAS, finally, both parents have suffered and will continue to suffer the loss of society, companionship, and comfort of their daughter, Katherine Selva, and

WHEREAS, plaintiffs have reached a conditional settlement with the City of Miami to settle this case for the gross amount of \$2,625,000, and

WHEREAS, the plaintiffs are permitted under the terms of the settlement to propose a plan to allocate the settlement funds as they deem appropriate, subject to the approval of the guardian ad litem and the court, and

WHEREAS, following payment by the City of Miami of the sum of \$200,000, the limit of liability set forth under s. 768.28, Florida Statutes, the remaining amount of the claim will be \$2,425,000, and

WHEREAS, the City of Miami has agreed to actively support 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 City of Miami is authorized and directed to appropriate from funds of the city not otherwise appropriated and to draw a warrant in the sum of \$2,425,000 payable to Maria Alcobar, parent and natural guardian of Katherine Selva, minor child of Aldo Selva and Maria Alcobar. After payment of attorney's fees, costs, and lobbying fees as provided in section 3, and any outstanding liens, the remainder shall be placed in a Special Needs Trust created for the exclusive use and benefit of Katherine Selva, a minor, as compensation for injuries and damages sustained.

Section 3. This award is intended to provide the sole compensation for any and all present and future claims arising out of the factual situation in connection with the injury to the claimant. Not more than \$515,199 may be paid by the claimants for attorney's fees, lobbying fees, costs, or other similar expenses.

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.