

By Senator Flores

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1 A bill to be entitled

2 An act for the relief of Aaron Edwards, a minor, and  
3 his parents, Mitzi Roden and Mark Edwards, by Lee  
4 Memorial Health System of Lee County; providing for an  
5 appropriation to compensate Aaron Edwards and his  
6 parents for damages sustained as a result of the  
7 medical negligence by employees of Lee Memorial Health  
8 System of Lee County; providing a limitation on the  
9 payment of fees and costs; providing an effective  
10 date.

11  
12 WHEREAS, Mitzi Roden and Mark Edwards' only child, Aaron  
13 Edwards, was born on September 5, 2007, at Lee Memorial  
14 Hospital, and

15 WHEREAS, during Mitzi Roden's pregnancy, Mitzi Roden and  
16 Mark Edwards attended childbirth classes through Lee Memorial  
17 Health System and learned of the potentially devastating effect  
18 that the administration of Pitocin to augment labor may have on  
19 a mother and her unborn child when not carefully and competently  
20 monitored, and

21 WHEREAS, Mitzi Roden and Mark Edwards communicated directly  
22 to Nurse Midwife Patricia Hunsucker of Lee Memorial Health  
23 System of their desire to have a natural childbirth, and

24 WHEREAS, Mitzi Roden enjoyed an uneventful full-term  
25 pregnancy with Aaron Edwards, free from any complications, and

26 WHEREAS, on September 5, 2007, at 5:29 a.m., Mitzi Roden,  
27 at 41 and 5/7 weeks' gestation awoke to find that her membranes  
28 had ruptured, and

29 WHEREAS, when Mitzi Roden presented to the hospital on the

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30 morning of September 5, she was placed on a fetal monitoring  
31 machine that confirmed that Aaron Edwards was doing well and in  
32 very good condition, and

33 WHEREAS, Mitzi Roden tolerated well a period of labor from  
34 9 a.m. until 12:30 p.m., but failed to progress in her labor to  
35 the point of being in active labor. At that time, Nurse Midwife  
36 Patricia Hunsucker informed Mitzi Roden and Mark Edwards that  
37 she would administer Pitocin to Mitzi in an attempt to speed up  
38 the labor, but both Mitzi Roden and Mark Edwards strenuously  
39 objected to the administration of Pitocin because of their  
40 knowledge about the potentially devastating effects it can have  
41 on a mother and child, including fetal distress and even death.  
42 Mitzi Roden and Mark Edwards informed Nurse Midwife Patricia  
43 Hunsucker that they would rather undergo a cesarean section than  
44 be administered Pitocin, but in spite of their objections, Nurse  
45 Midwife Patricia Hunsucker ordered that a Pitocin drip be  
46 administered to Mitzi Roden at an initial dose of 3 milliunits,  
47 to be increased by 3 milliunits every 30 minutes, and

48 WHEREAS, there was universal agreement by the experts  
49 called to testify at the trial in this matter that the  
50 administration of Pitocin over the express objections of Mitzi  
51 Roden and Mark Edwards was a violation of the standard of care,  
52 and

53 WHEREAS, for several hours during the afternoon of  
54 September 5, 2007, the dosage of Pitocin was consistently  
55 increased and Mitzi Roden began to experience contractions  
56 closer than every 2 minutes at 4:50 p.m., and began to  
57 experience excessive uterine contractility shortly before 6  
58 p.m., which should have been recognized by any reasonably

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59 competent obstetric care provider, and

60 WHEREAS, in spite of Mitzi Roden's excessive uterine  
61 contractility, the administration of Pitocin was inappropriately  
62 increased to 13 milliunits at 6:20 p.m. by Labor and Delivery  
63 Nurse Beth Jencks, which was a deviation from the acceptable  
64 standard of care for obstetric health care providers because, in  
65 fact, it should have been discontinued, and

66 WHEREAS, reasonable obstetric care required that Dr.  
67 Duvall, the obstetrician who was ultimately responsible for  
68 Mitzi Roden's labor and delivery, be notified of Mitzi Roden's  
69 excessive uterine contractility and that she was not adequately  
70 progressing in her labor, but the health care providers  
71 overseeing Mitzi Roden's labor unreasonably failed to do so, and

72 WHEREAS, in spite of Mitzi Roden's excessive uterine  
73 contractility, the administration of Pitocin was increased to 14  
74 milliunits at 7:15 p.m., when reasonable obstetric practices  
75 required that it be discontinued, and a knowledgeable obstetric  
76 care provider should have known that the continued use of  
77 Pitocin in the face of excessive uterine contractility posed an  
78 unreasonable risk to both Mitzi Roden and Aaron Edwards, and

79 WHEREAS, Lee Memorial's own obstetrical expert, Jeffrey  
80 Phelan, M.D., testified that Mitzi Roden experienced a tetanic  
81 contraction lasting longer than 90 seconds at 8:30 p.m., and Lee  
82 Memorial's own nurse midwife expert, Lynne Dollar, testified  
83 that she herself would have discontinued Pitocin at 8:30 p.m.,  
84 and

85 WHEREAS, at 8:30 p.m., the administration of Pitocin was  
86 unreasonably and inappropriately increased to 15 milliunits when  
87 reasonable obstetric practices required that it be discontinued,

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88 and

89 WHEREAS, at 9 p.m., Nurse Midwife Hunsucker visited Mitzi  
90 Roden at bedside, but mistakenly believed that the level of  
91 Pitocin remained at 9 milliunits, when, in fact, it had been  
92 increased to 15 milliunits, and further, she failed to  
93 appreciate and correct Mitzi Roden's excessive uterine  
94 contractility, and

95 WHEREAS, Lynne Dollar acknowledged that it is below the  
96 standard of care for Nurse Midwife Patricia Hunsucker to not  
97 know the correct level of Pitocin being administered to her  
98 patient, Mitzi Roden, and

99 WHEREAS, at 9:30 p.m., the administration of Pitocin was  
100 again unreasonably and inappropriately increased to 16  
101 milliunits, when reasonable obstetric practice required that it  
102 be discontinued in light of Mitzi Roden's excessive uterine  
103 contractility and intrauterine pressure, and

104 WHEREAS, as 9:40 p.m., Aaron Edwards could no longer  
105 compensate for the increasingly intense periods of  
106 hypercontractility and excessive intrauterine pressure brought  
107 on by the overuse and poor management of Pitocin administration,  
108 and suffered a reasonably foreseeable and predictable severe  
109 episode of bradycardia, where his heart rate plummeted to life-  
110 endangering levels, which necessitated an emergency cesarean  
111 section. Not until Aaron Edwards' heart rate crashed at 9:40  
112 p.m. did Nurse Midwife Patricia Hunsucker consult with her  
113 supervising obstetrician, Diana Duvall, M.D., having not  
114 discussed with Dr. Duvall her care and treatment of Mitzi  
115 Roden's labor since 12:30 p.m. Because Dr. Duvall had not been  
116 kept informed about the status of Mitzi Roden's labor, she was

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117 not on the hospital grounds at the time Aaron Edwards' heart  
118 rate crashed, and another obstetrician who was unfamiliar with  
119 Mitzi Roden's labor performed the emergency cesarean section to  
120 save Aaron Edwards' life, and

121 WHEREAS, there existed at the time of Mitzi Roden's labor  
122 and delivery a compensation system whereby a nurse midwife such  
123 as Patricia Hunsucker had a financial disincentive to consult  
124 with her supervising obstetrician during the period of labor,  
125 and

126 WHEREAS, Lee Memorial Health System had in place at the  
127 time of Mitzi Roden's labor and delivery rules regulating the  
128 use of Pitocin for the augmentation of labor which required that  
129 Pitocin be discontinued immediately upon the occurrence of  
130 tetanic contractions, nonreassuring fetal heart-rate patterns,  
131 or contractions closer than every 2 minutes, and

132 WHEREAS, in violation of rules regulating the use of  
133 Pitocin for the augmentation of labor, Labor and Delivery Nurse  
134 Beth Jencks and Nurse Midwife Patricia Hunsucker failed to  
135 immediately discontinue the administration of Pitocin in the  
136 face of hyperstimulated uterine contractions and excessive  
137 intrauterine pressure and increased the amount of Pitocin being  
138 administered to Mitzi Roden or remained completely unaware that  
139 the levels of Pitocin were being repeatedly increased, and

140 WHEREAS, Aaron Edwards suffered permanent and catastrophic  
141 injuries to his brain as a consequence of the acute hypoxic  
142 ischemic episode at birth, and

143 WHEREAS, Aaron Edwards currently and for the remainder of  
144 his life will suffer from spastic and dystonic cerebral palsy  
145 and quadriparesis, rendering him totally and permanently

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146 disabled, and

147 WHEREAS, Aaron Edwards currently and for the remainder of  
148 his life will not be able to orally communicate other than to  
149 his closest caregivers, and is entirely dependent on a computer  
150 tablet communication board for speech, and

151 WHEREAS, Aaron Edwards suffers from profound physical  
152 limitations affecting all four of his limbs such that he  
153 requires supervision 24 hours a day and cannot feed, bathe,  
154 dress, or protect himself, and

155 WHEREAS, Aaron Edwards will never be able to enter the  
156 competitive job market and will require a lifetime of medical,  
157 therapeutic, rehabilitation, and nursing care, and

158 WHEREAS, after a 6-week trial, a jury in Lee County  
159 returned a verdict in favor of Aaron Edwards, Mitzi Roden, and  
160 Mark Edwards, finding Lee Memorial Health System 100 percent  
161 responsible for Aaron Edwards' catastrophic and entirely  
162 preventable injuries and awarded a total of \$28,477,966.48 to  
163 the Guardianship of Aaron Edwards, \$1,340,000 to Mitzi Roden,  
164 and \$1 million to Mark Edwards, and

165 WHEREAS, the court also awarded Aaron Edwards, Mitzi Roden,  
166 and Mark Edwards \$174,969.65 in taxable costs, and

167 WHEREAS, Lee Memorial Health System tendered \$200,000  
168 toward payment of this claim, in accordance with the statutory  
169 limits of liability set forth in s. 768.28, Florida Statutes,  
170 NOW, THEREFORE,

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172 Be It Enacted by the Legislature of the State of Florida:

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174 Section 1. The facts stated in the preamble to this act are

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175 found and declared to be true.

176 Section 2. Lee Memorial Health System, formerly known as  
177 the Hospital Board of Directors of Lee County, is authorized and  
178 directed to appropriate from funds of the county not otherwise  
179 appropriated and to draw the following warrants as compensation  
180 for the medical malpractice committed against Aaron Edwards and  
181 Mitzi Roden:

182 (1) The sum of \$28,454,838.43, payable to the Guardianship  
183 of Aaron Edwards;

184 (2) The sum of \$1,338,989.67, payable to Mitzi Roden; and

185 (3) The sum of \$999,199.03, payable to Mark Edwards.

186 Section 3. The amount paid by Lee Memorial Health System  
187 pursuant to s. 768.28, Florida Statutes, and the amount awarded  
188 under this act are intended to provide the sole compensation for  
189 all present and future claims arising out of the factual  
190 situation described in this act which resulted in the injuries  
191 suffered by Aaron Edwards. The total amount paid for attorney's  
192 fees, lobbying fees, costs, and other similar expenses relating  
193 to this claim may not exceed 25 percent of the total amount  
194 awarded under this act.

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