

BILL

ORIGINAL

YEAR

1 A bill to be entitled  
 2 An act for the relief of Katherine Selva, a minor, by and  
 3 through Maria Alcobar, as parent and natural guardian of  
 4 Katherine Selva, by the City of Miami; providing for an  
 5 appropriation to compensate her for injuries sustained as  
 6 a result of the negligence of the City of Miami; providing  
 7 an effective date.

8  
 9 WHEREAS, On October 19, 1999, Katherine Selva, then 4 years  
 10 of age, was living with her mother and father, Maria Alcobar and  
 11 Aldo Selva, who were married at that time, sharing the surname  
 12 Selva, and living together with their two children, Katherine  
 13 Selva and her younger sister, Karenlyn Selva, and

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

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

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

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

27 WHEREAS, after Katherine Selva started seizing on October 19,  
 28 1999, her parents called 911 for paramedic assistance, and

29 WHEREAS, A rescue vehicle initially reported to the Selva

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30 residence at approximately 1:28 a.m. and found Katherine Selva  
 31 having active seizures, and

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

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

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

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

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

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

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

55 WHEREAS, this claim notwithstanding, rescue personnel did  
 56 successfully administer at least one additional milligram of  
 57 Valium intravenously, and

58 WHEREAS, critically however, the only oxygen the rescue

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59 | personnel administered to Katherine Selva during transport was  
 60 | via standard mask instead of a valve mask, and the rescue  
 61 | personnel did not have, and consequently did not utilize, an  
 62 | oxygen saturation monitor, and

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

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

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

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

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

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

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

85 |       WHEREAS, the city's rescue personnel, notably one or more  
 86 | paramedics in Rescue Ten, breached this duty by failing to  
 87 | respond in a timely and appropriate fashion and by failing

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88 specifically to treat the oxygen-starved condition of Katherine  
 89 Selva en route to the hospital, and

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

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

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

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

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

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

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

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117 | litem and the court, and

118 |       WHEREAS, following payment by the City of Miami of the sum  
 119 | of \$200,000, the limit of liability set forth under s. 768.28,  
 120 | Florida Statutes, the remaining amount of the claim will be  
 121 | \$2,425,000, and

122 |       WHEREAS, the City of Miami has agreed to actively support  
 123 | this claim bill, NOW, THEREFORE,

124 |

125 | Be It Enacted by the Legislature of the State of Florida:

126 |

127 |       Section 1. The facts stated in the preamble to this act are  
 128 | found and declared to be true.

129 |       Section 2. The City of Miami is authorized and directed to  
 130 | appropriate from funds of the city not otherwise appropriated and  
 131 | to draw a warrant in the sum of \$2,425,000 payable to Maria  
 132 | Alcobar, parent and natural guardian of Katherine Selva, minor  
 133 | child of Aldo Selva and Maria Alcobar, to be placed in a Special  
 134 | Needs Trust created for the exclusive use and benefit of  
 135 | Katherine Selva, a minor, as compensation for injuries and  
 136 | damages sustained.

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