

By the Committee on Health Regulation; and Senator Jones

588-2389-07

1 | A bill to be entitled

2 | An act relating to the North Broward Hospital

3 | District; providing for the relief of Adam

4 | Susser, a minor, by and through his parents and

5 | natural guardians, Judith Susser and Gary

6 | Susser; providing for an appropriation to

7 | compensate him for injuries and damages

8 | sustained as a result of the negligence of the

9 | North Broward Hospital District, d.b.a. Coral

10 | Springs Medical Center; providing conditions

11 | for payment; providing an effective date.

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13 | WHEREAS, in July 2000, Gary Susser, a lawyer, and his

14 | wife, Judith Susser, a paralegal, were residing in Boca Raton,

15 | Florida, and

16 | WHEREAS, prior to her marriage to Gary Susser, Judith

17 | Susser was unable to have children, and

18 | WHEREAS, after their marriage, Judith and Gary Susser

19 | badly wanted to have children, despite the fact that Judith

20 | Susser was 47 years of age, and

21 | WHEREAS, Judith Susser went to a fertility expert and

22 | was finally able to become pregnant through in vitro

23 | fertilization, and

24 | WHEREAS, prenatal tests revealed that Judith Susser was

25 | pregnant with twins, and consequently Judith and Gary Susser

26 | were looking forward to the birth of their twin boys, and

27 | WHEREAS, Judith and Gary Susser sought out high-risk

28 | pregnancy experts who could guide them through Judith Susser's

29 | pregnancy in order to ensure that her pregnancy progressed

30 | safely and without complications, and

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

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

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

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

13 WHEREAS, despite a nonreassuring fetal heart pattern
14 and despite the fact that the nurses kept having difficulties
15 getting the fetal monitoring to perform properly, the
16 pregnancy was allowed to continue for 4 and 1/2 days, with the
17 nurses never reporting the abnormal test results or the
18 difficulties they were having with the fetal monitoring
19 equipment to the physicians, and

20 WHEREAS, 2 days into Judith Susser's labor, a
21 biophysical profile was ordered to be performed by Dr.
22 Edwards, and

23 WHEREAS, that biophysical profile yielded abnormal
24 indications, although not reported by the nurses, the
25 obstetricians were aware of the abnormal results. Despite
26 this, the obstetricians allowed Judith Susser's labor to
27 continue, and

28 WHEREAS, finally, on the early morning of the 5th day
29 of labor, Judith Susser was taken to the operating room for
30 delivery, and
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1 WHEREAS, the physician in charge was insistent on
2 performing a vaginal delivery despite all the obvious needs
3 for an emergency cesarean section, and

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

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

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

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

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

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

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

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

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

7 WHEREAS, the hospital's private insurer, the Zurich
8 Insurance Company, paid the claimants the amount of
9 \$3,831,218.04 on behalf of the North Broward Hospital
10 District, and

11 WHEREAS, the North Broward Hospital District paid
12 \$200,000 for the benefit of Adam Susser pursuant to the limits
13 of liability set forth in s. 768.28, Florida Statutes, and

14 WHEREAS, in addition, the North Broward Hospital
15 District fully supports the passage of a claim bill for the
16 amount of \$668,781.96, NOW, THEREFORE,

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

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20 Section 1. The facts stated in the preamble to this
21 act are found and declared to be true.

22 Section 2. The North Broward Hospital District is
23 authorized and directed to appropriate from funds of the
24 hospital district not otherwise appropriated and to draw a
25 warrant in the sum of \$668,781.96, plus the interest that has
26 accrued on those funds in the account maintained by the
27 district, payable to the special needs trust established for
28 the care and benefit of Adam Susser, minor child of Judith
29 Susser and Gary Susser, as compensation for injuries and
30 damages sustained as a result of the negligence of the North
31 Broward Hospital District.

1 Section 3. This award is intended to provide the sole
2 compensation for any and all present and future claims arising
3 out of the factual situation in connection with the injury to
4 the claimant. Not more than 25 percent of the award may be
5 paid by the claimant for attorney's fees, lobbying fees,
6 costs, or other similar expenses.

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

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 38

13 The committee substitute makes minor factual corrections to
14 the "whereas clauses" in the bill and clarifies that payment
15 to the claimant should include any accrued interest. The
16 committee substitute provides that the award is intended to
17 provide the sole compensation for claims arising out of the
18 factual situation in connection with the injury to the
19 claimant. The committee substitute restricts attorney's fees,
20 lobbying fees, costs, or other similar expenses to no more
21 than 25 percent of the amount awarded.
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