

By Senator Ring

32-00138-09

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1                                   A bill to be entitled  
2           An act for the relief of Raul Otero by the South  
3           Broward Hospital District; providing for an  
4           appropriation to compensate him for injuries sustained  
5           as a result of the negligence of Memorial Regional  
6           Hospital; providing a limitation on the payment of  
7           fees and costs; providing an effective date.

8  
9           WHEREAS, on March 28, 2003, 18-year-old Raul Otero was  
10          involved in a motorcycle accident, and was seriously injured and  
11          taken to Memorial Regional Hospital in Hollywood, Florida.  
12          Memorial Regional Hospital is a public hospital owned by the  
13          South Broward Hospital District. His injuries resulted in an  
14          above-the-knee amputation of his left leg and a splenectomy.  
15          The insurer of the at-fault driver tendered \$1 million, which  
16          was the driver's policy limit, and

17          WHEREAS, on April 16, 2003, while in the trauma intensive  
18          care unit at Memorial Regional Hospital, Mr. Otero was taken  
19          during the night shift to the MRI laboratory for a scan to rule  
20          out a nonemergency shoulder injury. Although he was alert and  
21          oriented, he had not given consent for the procedure, and his  
22          parents, who do not speak English, had not given consent for the  
23          procedure. Mr. Otero became panicky during the scan and was  
24          given several doses of a narcotic sedative, Versed, in addition  
25          to the narcotic medication he was already receiving  
26          intravenously. Because of his panicked thrashing, an order for a  
27          paralytic drug was also given. Lawton Tang, M.D., a surgical  
28          resident employed by Mt. Sinai Medical Center and working under  
29          the supervision of attending physicians of the South Broward

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30 Hospital District on a rotation through Memorial Regional  
31 Hospital, was not present and gave the medication orders by  
32 telephone, and

33 WHEREAS, shortly thereafter Raul Otero went into cardiac  
34 arrest, a code was called, and, after a relatively extended  
35 process, Mr. Otero was successfully resuscitated. However, he  
36 was found to be suffering from anoxic encephalopathy, and

37 WHEREAS, several physicians, including the trauma resident  
38 on duty at the time, testified that Mr. Otero was not stable  
39 enough to be taken from intensive care during the midnight shift  
40 for an elective MRI. In fact, the very next day this practice  
41 was expressly forbidden by then Chief of Trauma, Lawrence  
42 Lottenberg, M.D., and

43 WHEREAS, the hospital's pharmacist failed to prohibit the  
44 overdose and stop the doubling and tripling of medication  
45 administration and the administration of inappropriate paralytic  
46 medication, as did the nursing staff, and the medication orders  
47 were also ratified by the head nurse in the trauma intensive  
48 care unit that night, and

49 WHEREAS, Mr. Otero was accompanied by a nurse and a  
50 respiratory therapist to the MRI laboratory, but was removed  
51 from his ventilator at the time he was transported to the MRI  
52 during the night shift when the hospital operates using  
53 significantly fewer staff. As a result, Mr. Otero was not  
54 adequately monitored and his ventricular fibrillation was not  
55 detected in a timely manner. Indeed, based on the severity of  
56 his brain damage, it appears that Mr. Otero was in ventricular  
57 fibrillation for a significant time before resuscitation began.  
58 As a result, oxygenated blood was not being delivered to his

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59 brain or other vital organs when he was being ventilated, and

60 WHEREAS, the records clearly state that Mr. Otero was not  
61 connected to any type of cardiac monitor when he was transported  
62 to the MRI laboratory. Although it is not clear from the record,  
63 there is some evidence to suggest that Mr. Otero may have  
64 exhibited cardiac symptoms before the evening of April 16, and

65 WHEREAS, Raul Otero is completely incontinent, is  
66 quadriplegic, and cannot speak, and is unable to consistently  
67 follow simple one-step commands. Mr. Otero's life-care plan was  
68 drafted by Sharon Griffin, Ph.D., and was originally valued in  
69 excess of \$20 million. Now that his feeding tube and ventilator  
70 have been removed, the cost of his future care has been revised  
71 to approximately \$12 million, and

72 WHEREAS, the surgical resident, Lawton Tang, M.D., the  
73 resident who gave the telephonic medication orders, and Mt.  
74 Sinai Medical Center, his employer, have settled for \$2 million,  
75 and

76 WHEREAS, the South Broward Hospital District has agreed to  
77 pay \$100,000 to Raul Otero and \$100,000 to his mother and  
78 primary caregiver, Ana Otero, pursuant to s. 728.28, Florida  
79 Statutes. In addition, the district has agreed to the passage of  
80 a claim bill in the amount of \$2 million and to expressly lobby  
81 for passage of such bill, NOW, THEREFORE,

82  
83 Be It Enacted by the Legislature of the State of Florida:

84  
85 Section 1. The facts stated in the preamble to this act are  
86 found and declared to be true.

87 Section 2. The South Broward Hospital District is

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88 authorized and directed to appropriate from funds of the  
89 district not otherwise appropriated and to draw a warrant in the  
90 sum of \$2 million payable to Raul Otero as compensation for  
91 injuries and damages sustained.

92 Section 3. The amount awarded in this act is intended to  
93 provide the sole compensation for all present and future claims  
94 arising out of the factual situation described in this act which  
95 resulted in injury to Raul Otero. The total amount paid for  
96 attorney's fees, lobbying fees, costs, and other similar  
97 expenses relating to the adoption of this act may not exceed 25  
98 percent of the total amount awarded under this act.

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