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

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29 the supervision of attending physicians of the South Broward
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

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57 fibrillation for a significant time before resuscitation began.
58 As a result, oxygenated blood was not being delivered to his
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. 768.28, 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:

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

87 Section 2. The South Broward Hospital District is
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.