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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

03/07/2018 04:58 PM

Senator Braynon moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

Section 2. There is appropriated from the General Revenue
Fund to the Department of Children and Families the sum of
\$5,076,543.08 for the relief of C.M.H. for the personal injuries
and damages he sustained. After payment of attorney fees and
costs, lobbying fees, and other similar expenses relating to



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12 this claim, the remaining funds shall be placed into an
13 irrevocable trust created for C.M.H. for his exclusive use and
14 benefit.

15 Section 3. The Chief Financial Officer is directed to draw
16 a warrant in favor of C.M.H. in the sum of \$5,076,543.08 upon
17 funds of the Department of Children and Families in the State
18 Treasury, and the Chief Financial Officer is directed to pay the
19 same out of such funds in the State Treasury.

20 Section 4. The amount paid by the Department of Children
21 and Families pursuant to s. 768.28, Florida Statutes, and the
22 amount awarded under this act are intended to provide the sole
23 compensation for all present and future claims arising out of
24 the factual situation described in the preamble to this act
25 which resulted in the personal injuries and damages to C.M.H. Of
26 the amount awarded under this act, the total amount paid for
27 attorney fees may not exceed \$1,116,839.48, the total amount
28 paid for lobbying fees may not exceed \$152,296.29, and the total
29 amount paid for costs and other similar expenses relating to
30 this claim may not exceed \$1,642.16.

31 Section 5. This act shall take effect upon becoming a law.

32
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete everything before the enacting clause
36 and insert:

37 A bill to be entitled
38 An act for the relief of C.M.H.; providing an
39 appropriation to compensate C.M.H. for injuries and
40 damages sustained as a result of the negligence of the



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41 Department of Children and Families, formerly known as
42 the Department of Children and Family Services;
43 requiring certain funds to be placed into an
44 irrevocable trust; providing a limitation on fees and
45 costs; providing an effective date.

46
47
48 WHEREAS, beginning at a very young age, J.W. was subjected
49 to incidents of physical and sexual abuse, which caused him to
50 become sexually aggressive, and

51 WHEREAS, on September 6, 2002, J.W., then in the custody of
52 the Department of Children and Families (DCF), formerly known as
53 the Department of Children and Family Services, was placed into
54 the home of C.M.H., whose parents volunteered to have J.W. live
55 in their home, and

56 WHEREAS, prior to the placement of J.W. with the family,
57 DCF obtained a comprehensive behavioral health assessment that
58 stated that J.W. was sexually aggressive and that recommended
59 specific precautions and training for potential foster parents,
60 which C.M.H.'s parents did not receive, and

61 WHEREAS, the testimony of the DCF caseworker confirmed that
62 DCF was aware that then-10-year-old J.W. and then-8-year-old
63 C.M.H. were sharing a bedroom, and

64 WHEREAS, on October 31, 2002, J.W. sexually assaulted a 4-
65 year-old child who was visiting C.M.H.'s home, and

66 WHEREAS, although DCF knew that J.W. was sexually
67 aggressive, the agency did not remove him from the home, and

68 WHEREAS, after November 2002, J.W.'s behavioral problems
69 escalated, and he deliberately squeezed C.M.H.'s pet mouse to



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70 death in front of C.M.H. and made physical threats toward
71 C.M.H., and

72 WHEREAS, C.M.H.'s parents began to discuss adopting J.W.,
73 whom they considered a part of their family, and

74 WHEREAS, in January 2004, the family began taking
75 therapeutic parenting classes to better meet J.W.'s needs, and

76 WHEREAS, in March 2004, after C.M.H.'s mother was diagnosed
77 with Stage 4, terminal, metastatic colon cancer, which had
78 spread to her liver, C.M.H.'s father requested that DCF stop the
79 process of having the family designated as "long-term
80 nonrelative caregivers," and

81 WHEREAS, in April 2004, DCF closed out J.W.'s dependency
82 file, leaving J.W. in the custody of the family, and

83 WHEREAS, in April 2005, C.M.H.'s father wrote DCF and the
84 juvenile judge assigned to the case to request help in placing
85 J.W. in a residential treatment facility, and

86 WHEREAS, in July 2005, after a physical altercation between
87 J.W. and C.M.H., C.M.H. disclosed to his parents that J.W. had
88 sexually assaulted him, and J.W. was immediately removed from
89 the home, and

90 WHEREAS, C.M.H. sustained severe and permanent psychiatric
91 injuries, including posttraumatic stress disorder, as a result
92 of the sexual and emotional abuse perpetrated by J.W., and

93 WHEREAS, the sexual assault of C.M.H. by J.W. was
94 predictable and preventable, and

95 WHEREAS, on April 14, 2006, a lawsuit, Case No. 2006 CA
96 003727, was filed in the 15th Judicial Circuit in and for Palm
97 Beach County on behalf of C.M.H., by and through his parents,
98 alleging negligence on the part of DCF and its providers which



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99 allowed the perpetration of sexual abuse against and the
100 victimization of C.M.H. by J.W., and

101 WHEREAS, a mutually agreeable settlement could not be
102 reached, and a jury trial was held in Palm Beach County, and

103 WHEREAS, on January 2, 2014, after a jury trial and
104 verdict, the court entered a judgment against DCF for
105 \$5,176,543.08, including costs, and

106 WHEREAS, the Division of Risk Management of the Department
107 of Financial Services paid the family of C.M.H. \$100,000, the
108 statutory limit at that time under s. 768.28, Florida Statutes,
109 and

110 WHEREAS, C.M.H., now a young adult, is at a vulnerable
111 stage in his life and urgently needs to recover the balance of
112 the judgment awarded him so that his psychiatric injuries may be
113 addressed and he may lead a normal life, and

114 WHEREAS, the balance of the judgment is to be paid into an
115 irrevocable trust through the passage of this claim bill in the
116 amount of \$5,076,543.08, NOW, THEREFORE,