

By the Committee on Appropriations; and Senator Braynon

576-03831-18

201818c1

1 A bill to be entitled
2 An act for the relief of C.M.H.; providing an
3 appropriation to compensate C.M.H. for injuries and
4 damages sustained as a result of the negligence of the
5 Department of Children and Families, formerly known as
6 the Department of Children and Family Services;
7 requiring certain funds to be placed into an
8 irrevocable trust; providing a limitation on attorney
9 fees; providing an effective date.

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11 WHEREAS, beginning at a very young age, J.W. was subjected
12 to incidents of physical and sexual abuse, which caused him to
13 become sexually aggressive, and

14 WHEREAS, on September 5, 2002, J.W., then in the custody of
15 the Department of Children and Families (DCF), formerly known as
16 the Department of Children and Family Services, was placed into
17 the home of C.M.H., whose parents volunteered to have J.W. live
18 in their home, and

19 WHEREAS, before the placement of J.W. with the family, DCF
20 obtained a comprehensive behavioral health assessment that
21 stated that J.W. was sexually aggressive and that recommended
22 specific precautions and training for potential foster parents,
23 which C.M.H.'s parents did not receive, and

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

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

29 WHEREAS, although DCF knew that J.W. was sexually

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30 aggressive, the agency did not remove him from the home, and

31 WHEREAS, after November 2002, J.W.'s behavioral problems
32 escalated, and he deliberately squeezed C.M.H.'s pet mouse to
33 death in front of C.M.H. and made physical threats toward
34 C.M.H., and

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

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

39 WHEREAS, in March 2004, after C.M.H.'s mother was diagnosed
40 with stage 4 terminal metastatic colon cancer, which had spread
41 to her liver, C.M.H.'s father requested that DCF stop the
42 process of having the family designated as "long-term
43 nonrelative caregivers," and

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

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

49 WHEREAS, on July 28, 2005, after a physical altercation
50 between J.W. and C.M.H., C.M.H. disclosed to his parents that
51 J.W. had sexually assaulted him, and J.W. was immediately
52 removed from the home, and

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

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

58 WHEREAS, on April 14, 2006, a lawsuit, Case No. 2006 CA

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59 003727, was filed in the 15th Judicial Circuit in and for Palm
60 Beach County on behalf of C.M.H., by and through his parents,
61 alleging negligence on the part of DCF and its providers, which
62 allowed the perpetration of sexual abuse against and the
63 victimization of C.M.H. by J.W., and

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

66 WHEREAS, on January 2, 2014, after a jury trial and
67 verdict, the court entered a judgment against DCF for
68 \$5,176,543.08, including costs, and

69 WHEREAS, the Division of Risk Management of the Department
70 of Financial Services paid the family of C.M.H. \$100,000, the
71 statutory limit at that time under s. 768.28, Florida Statutes,
72 and

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

77 WHEREAS, the balance of the judgment is to be paid into an
78 irrevocable trust through the passage of this claim bill in the
79 amount of \$2,639,043, NOW, THEREFORE,

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

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

85 Section 2. There is appropriated from the General Revenue Fund
86 to the Department of Children and Families the sum of \$2,639,043
87 for the relief of C.M.H. for the personal injuries and damages

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88 he sustained. After payment of attorney fees and costs, lobbying
89 fees, and other similar expenses relating to this claim, the
90 remaining funds shall be placed into an irrevocable trust
91 created for C.M.H. for his exclusive use and benefit.

92 Section 3. The Chief Financial Officer is directed to draw
93 a warrant in favor of C.M.H. in the sum of \$2,639,043 upon funds
94 of the Department of Children and Families in the State
95 Treasury, and the Chief Financial Officer is directed to pay the
96 same out of such funds in the State Treasury not otherwise
97 appropriated.

98 Section 4. The amount paid by the Department of Children
99 and Families pursuant to s. 768.28, Florida Statutes, and the
100 amount awarded under this act are intended to provide the sole
101 compensation for all present and future claims arising out of
102 the factual situation described in the preamble to this act
103 which resulted in the personal injuries and damages to C.M.H.
104 The total amount of attorney fees relating to this claim may not
105 exceed 25 percent of the amount awarded under this act.

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