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CS/HB 6509

2018 Legislature

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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 fees and  
9 costs; providing an effective date.

10  
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 6, 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, prior to the placement of J.W. with the family,  
20 DCF 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

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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  
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  
41 spread 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, in July 2005, after a physical altercation between  
50 J.W. and C.M.H., C.M.H. disclosed to his parents that J.W. had

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51 sexually assaulted him, and J.W. was immediately removed from  
52 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  
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

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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 \$5,076,543.08, NOW, THEREFORE,

80 |

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

82 |

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

85 |       Section 2. There is appropriated from the General Revenue  
86 | Fund to the Department of Children and Families the sum of  
87 | \$5,076,543.08 for the relief of C.M.H. for the personal injuries  
88 | and damages he sustained. After payment of attorney fees and  
89 | costs, lobbying fees, and other similar expenses relating to  
90 | this claim, the remaining funds shall be placed into an  
91 | irrevocable trust created for C.M.H. for his exclusive use and  
92 | benefit.

93 |       Section 3. The Chief Financial Officer is directed to draw  
94 | a warrant in favor of C.M.H. in the sum of \$5,076,543.08 upon  
95 | funds of the Department of Children and Families in the State  
96 | Treasury, and the Chief Financial Officer is directed to pay the  
97 | same out of such funds in the State Treasury.

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

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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. Of  
104 the amount awarded under this act, the total amount paid for  
105 attorney fees may not exceed \$1,116,839.48, the total amount  
106 paid for lobbying fees may not exceed \$152,296.29, and the total  
107 amount paid for costs and other similar expenses relating to  
108 this claim may not exceed \$1,642.16.

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