

By Senator Bernard

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A bill to be entitled

An act for the relief of Michael Barnett, individually and as the natural parent and legal guardian of R.B.; providing an appropriation to compensate them for injuries and damages sustained as a result of the negligence of the Department of Children and Families; providing a limitation on compensation and the payment of attorney fees; providing an effective date.

WHEREAS, in September 2010, Patrick Dell entered the Riviera Beach residence of his estranged wife, Natasha Whyte-Dell, where he fatally shot her and four of her children and severely wounded a fifth child by shooting him in the neck, and

WHEREAS, Mr. Dell committed suicide shortly after exiting the residence, and

WHEREAS, several months before the shootings, on January 26, 2010, the abuse hotline of the Department of Children and Families received a phone call about an incident that occurred in December 2009, and

WHEREAS, according to the police report, while Ms. Whyte-Dell was visiting a friend, Mr. Dell charged at and threatened Ms. Whyte-Dell with a knife, verbally threatened to kill her, and flattened all four tires on her vehicle, and

WHEREAS, later that same morning, Mr. Dell was arrested for aggravated assault with a deadly weapon and criminal mischief, and

WHEREAS, over the course of the following month, the department conducted an investigation but subsequently closed the case file on February 25, 2010, after concluding that the

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children were not at significant risk of harm, and

WHEREAS, a history of threats of violence existed before Mr. Dell's shootings of Ms. Whyte-Dell and her children, and

WHEREAS, the Riviera Beach Police Department had responded to the Whyte-Dell home 34 times in the 4 years preceding the day of the shootings, and

WHEREAS, 11 of those police responses were for domestic violence disturbances, and

WHEREAS, the Department of Children and Families knew or had reason to know of the threats and had numerous opportunities to remove the children from that dangerous environment, yet did not act and closed its case file, and

WHEREAS, the department's southeast regional director acknowledged that the department could have and should have done more for the family and admitted that the investigation was "subpar," and

WHEREAS, the department's child protective investigator assigned to the case failed to follow policies and procedures, and

WHEREAS, the investigator himself had been accused of domestic violence and was facing pending domestic violence charges, and

WHEREAS, because of the investigator's errors and omissions, the department failed to follow up on warning signs that any reasonable investigation should have evaluated, analyzed, and acted upon, especially after discovering the investigator's inherent conflict of interest, and

WHEREAS, the department failed to perform any secondary review or reinvestigation after the investigator's pending

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domestic violence charges were made public, and

WHEREAS, in an appeal to the Supreme Court of Florida, the court held that the Whyte-Dell family shootings are to be treated as a single incident or occurrence, and

WHEREAS, Michael Barnett, individually and as the natural parent and legal guardian of R.B., and as the personal representative of the estates of D.B., D.B., and B.B., entered into a settlement agreement and release and a consent final judgment with the State of Florida and the department, and

WHEREAS, per the settlement agreement and release, Mr. Barnett and R.B. agreed to accept the amount of \$160,000, including attorney fees and costs, and

WHEREAS, through the consent final judgment, judgment was entered in favor of Mr. Barnett and R.B. and against the department in the amount of \$296,400, NOW, THEREFORE,

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

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

Section 2. The sum of \$296,400 is appropriated from the General Revenue Fund to the Department of Children and Families for the relief of Michael Barnett, individually and as the natural parent and legal guardian of R.B., for injuries and damages sustained.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of Michael Barnett and R.B. in the sum of \$296,400 upon funds of the Department of Children and Families in the State Treasury and to pay the same out of such funds in

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the State Treasury.

Section 4. The amount paid by the Department of Children and Families pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in injuries and damages to Michael Barnett and R.B. The total amount paid for attorney fees relating to this claim may not exceed 25 percent of the total amount awarded under this act.

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