

By the Committee on Finance and Taxation; and Senators
Campbell, Diaz de la Portilla and Pruitt

314-1710-01

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A bill to be entitled
An act for the relief of the Guardianship of
Kimberly Godwin; providing an appropriation to
compensate her for injuries she sustained as a
result of the negligence of the Department of
Children and Family Services; specifying use of
funds; requiring a reversion of funds to the
state; providing an effective date.

WHEREAS, Kimberly Godwin is a profoundly retarded young
woman who was being cared for in a group home that was
licensed and supervised by the Department of Children and
Family Services, and

WHEREAS, she has the IQ of a young child, is nonverbal,
is incontinent, and stands 3 feet 11 inches tall, and

WHEREAS, in August 1985, Kimberly Godwin was
transferred to the Schenck Group Home in Ft. Pierce, Florida,
based on recommendations by the department due to a confirmed
abuse report that she was beaten and abused at another
facility under the department's supervision, and

WHEREAS, the Schenck Group Home was licensed,
supervised, and operated by the department and its employees
or agents, and

WHEREAS, Kimberly Godwin received burns on her upper
thigh which were inflicted on her while she was residing at
the department's group home in 1989 and the department admits
that the burns were caused by its violation of the Bill of
Rights for the Developmentally Disabled and by its negligence,
and

1 WHEREAS, a Ft. Pierce jury determined that Kimberly
2 Godwin suffered noneconomic damages of \$500,000 as a result of
3 that abuse, and

4 WHEREAS, from 1990 through 1991, teachers at Kimberly
5 Godwin's school suspected, due to her missed menstrual cycle
6 and other signs of abuse, that she was being abused and raped,
7 and

8 WHEREAS, the department admits that in September 1991
9 it violated Kimberly Godwin's rights and that because of its
10 negligence Kimberly was raped and impregnated by the group
11 home operator's 16-year-old son, who was not supposed to
12 reside in the house, and

13 WHEREAS, a Ft. Pierce jury determined that Kimberly
14 Godwin suffered noneconomic damages of \$1 million for the
15 sexual battery and impregnation, and

16 WHEREAS, the department has admitted that it violated
17 Kimberly Godwin's rights and was negligent for failing to
18 discover her pregnancy until she was over 20 weeks pregnant,
19 and

20 WHEREAS, Kimberly was denied prompt and appropriate
21 medical care because the department and the group home did not
22 want her pregnancy revealed, and

23 WHEREAS, a Ft. Pierce jury determined that Kimberly
24 Godwin suffered \$500,000 in noneconomic damages as a result of
25 this abuse, and

26 WHEREAS, after Kimberly Godwin's pregnancy was known to
27 the department, the department continued her in the care and
28 custody of the same group home and failed to notify her
29 parents of her pregnancy, and

30 WHEREAS, when her parents were notified by a Guardian
31 Ad Litem for Kimberly, her mother, Darlene Godwin, who is now

1 deceased, removed Kimberly from the custody of the
2 department's group home, at which time Kimberly was suffering
3 from pneumonia, anemia, and dehydration as a result of
4 continued abuse and neglect and was taken to the hospital by
5 her mother and was hospitalized, and

6 WHEREAS, her condition was so poor that the doctors
7 performed blood transfusions and suspected that she had
8 leukemia, and

9 WHEREAS, the department admits that its negligence
10 caused Kimberly's deteriorating medical condition, and a jury
11 determined that Kimberly Godwin suffered \$1 million in
12 noneconomic damages as a result of this abuse, and

13 WHEREAS, because of her medical condition, it was
14 determined that Kimberly Godwin could not safely give birth to
15 a child, and a circuit court ordered a therapeutic abortion to
16 protect Kimberly Godwin's life, and

17 WHEREAS, the jury also determined that Kimberly Godwin
18 suffered \$5 million in economic damages caused by her rape and
19 impregnation, and

20 WHEREAS, at trial, the jury heard unrefuted testimony
21 that Kimberly Godwin requires extraordinary services, which
22 are not being provided, because of her abuse, and

23 WHEREAS, the jury determined that Kimberly Godwin's
24 abuse has made her incapable of living in a group home
25 environment, thus increasing the cost for her habilitative
26 care over her entire lifetime, estimated to be 51 years, and

27 WHEREAS, Kimberly is residing with her father, Jimmy
28 Godwin, and her family is committed to providing individual
29 home care to ensure her safety, and

30 WHEREAS, on March 28, 2000, a jury awarded the
31 Guardianship of Kimberly Godwin a total of \$8 million in

1 damages plus \$21,555.30 in costs, and \$5 million was awarded
2 for the economic damages and \$3 million for her pain and
3 suffering and abuse that continued from 1989 until her removal
4 from the department's custody in 1992, and

5 WHEREAS, on April 12, 2000, the trial court entered a
6 Final Judgment of \$8 million against the Department of
7 Children and Family Services, and

8 WHEREAS, on April 19, 2000, the trial judge denied the
9 department's motions for new trial and remittitur, and the
10 department did not appeal either the jury's verdict or the
11 court's order upholding the verdict, and

12 WHEREAS, the Department of Children and Family Services
13 has paid Kimberly Godwin \$400,000 pursuant to the limits of
14 liability set forth in section 768.28, Florida Statutes, NOW,
15 THEREFORE,

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

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

21 Section 2. There is appropriated from the State
22 Treasury the sum of \$7,600,000 to be paid to the Guardianship
23 of Kimberly Godwin, Jimmy Godwin, Guardian, as relief to
24 Kimberly Godwin as provided in this section.

25 (1) On June 1, 2001, the Comptroller is directed to
26 draw a warrant in favor of the Guardianship of Kimberly
27 Godwin, Jimmy Godwin, Guardian, in the sum of \$3,600,000 out
28 of nonrecurring General Revenue.

29 (2) On June 1 of each succeeding year in 2002, 2003,
30 2004, and 2005, the Comptroller is directed to draw a warrant
31 from nonrecurring General Revenue in the sum of \$1,000,000

1 payable to the Guardianship of Kimberly Godwin, Jimmy Godwin,
2 Guardian, to be placed in a special needs trust created for
3 the exclusive use and benefit of Kimberly Godwin.

4 (3) It is the intent of the Legislature that no amount
5 over \$5,000 per month be withdrawn from the special needs
6 trust without prior court order upon a finding of
7 appropriateness. Furthermore, upon this act becoming a law, a
8 certified copy of this act shall be forwarded to the Liberty
9 County Clerk of Court and included in Kimberly Godwin's
10 guardianship file.

11 (4) Upon Kimberly Godwin's death, any funds remaining
12 in the special needs trust after payment of any outstanding
13 medically related debt shall revert to the State Treasury of
14 the State of Florida and be credited to the Department of
15 Children and Family Services.

16 Section 3. This act shall take effect upon becoming a
17 law.

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19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
20 COMMITTEE SUBSTITUTE FOR
21 SB 42

22 The committee substitute provides for a payment of \$7,600,000
23 and changes the source of funds to nonrecurring general
24 revenue; provides for the funds to be paid over 5 years into a
25 special needs trust created for the exclusive use and benefit
26 of Kimberly Godwin; specifies intent that the court be
27 petitioned for withdrawals over \$5,000 per month; and provides
28 intent that any funds remaining upon Kimberly Godwin's death
29 revert to the state's general fund.
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