

By Senator Mitchell

4-59-01

1 A bill to be entitled
2 An act for the relief of Kathleen McCarthy
3 individually and Kathleen McCarthy as personal
4 representative of the Estate of Laura Bailey,
5 deceased; George Decker and Joan Decker
6 individually and as co-personal representatives
7 of the Estate of Christina Decker; William
8 Chapman and Geraldine Chapman individually, and
9 William Chapman, as personal representative of
10 the Estate of Patricia Chapman, deceased; Rusha
11 Williams as legal guardian for Pauline Hodge;
12 providing an appropriation to compensate them
13 for losses sustained as a result of the actions
14 of the Department of Children and Family
15 Services; providing an effective date.

16
17 WHEREAS, Laura Bailey, Patricia Chapman, Christina
18 Decker, Pauline Hodge, developmentally disabled adults unable
19 to care for themselves, were institutionalized in various
20 facilities on the grounds of Tacachale and were wholly
21 dependent upon the care, custody, and control of the
22 Department of Children and Family Services and its employees,
23 Rachuel Sercey and Evertice Cole, and

24 WHEREAS, on April 19, 1998, Rachuel Sercey lost control
25 of a facility-owned van that flipped and ejected Laura Bailey,
26 Patricia Chapman, Christina Decker, and Pauline Hodge from the
27 vehicle, and

28 WHEREAS, Laura Bailey, Patricia Chapman, and Christina
29 Decker subsequently died from their injuries , and

30 WHEREAS, Laura Bailey, Patricia Chapman, Christina
31 Decker, Pauline Hodge and their guardians relied upon the

1 Department of Children and Family Services and its staff to
2 provide for their safety and welfare and to make the proper
3 decisions on their behalf concerning their day-to-day
4 activities, and

5 WHEREAS, the facility-owned vehicle involved in the
6 accident which is the subject of litigation was improperly and
7 negligently maintained by the facility, including, but not
8 limited to, negligent maintenance of the right rear tire on
9 the van, and

10 WHEREAS, for almost 15 years before the accident,
11 Rachuel Sercey, worked at Tacachale, and

12 WHEREAS, before the accident, Rachuel Sercey was
13 arrested and cited on numerous occasions for driving
14 infractions and substance abuse related charges and was
15 reprimanded by Tacachale for deviation from a trip ticket and
16 neglecting residents in her care, and

17 WHEREAS, notwithstanding this history of which the
18 Department of Children and Family Services knew or should have
19 known, the department permitted Rachuel Sercey to drive
20 residents in facility-owned vehicles for facility purposes,
21 and

22 WHEREAS, the Department of Children and Family Services
23 did not require mandatory drug testing of facility staff nor
24 did it conduct routine background checks on facility staff,
25 and

26 WHEREAS, before April 19, 1998, Tacachale staff
27 submitted for approval a request that certain residents be
28 allowed to attend a picnic field trip to Ginnie Springs, which
29 request was approved by agents and employees of the Department
30 of Children and Family Services, and

31

1 WHEREAS, Laura Bailey, Patricia Chapman, Christina
2 Decker, and Pauline Hodge were among those residents scheduled
3 to attend the Ginnie Springs field trip, and

4 WHEREAS, on April 19, 1998, plaintiffs Laura Bailey,
5 Patricia Chapman, Christina Decker, Pauline Hodge, and three
6 developmentally disabled adult women were loaded into a
7 facility-owned van along with two staff personnel, Evertice
8 Cole and Rachuel Sercey, and

9 WHEREAS, the van was owned and maintained by the
10 Department of Children and Family Services and used for the
11 purpose of transporting facility residents, and

12 WHEREAS, even though the van was designed to
13 accommodate eight persons and was only equipped with eight
14 seatbelts, Evertice Cole and Rachuel Sercey allowed nine
15 occupants, including the seven developmentally disabled women,
16 to enter the van, and

17 WHEREAS, of these nine occupants, Evertice Cole and
18 Rachuel Sercey sat in the front two seats with seatbelts,
19 ensuring that at least one resident had no access to a
20 seatbelt at the outset of the field trip, and

21 WHEREAS, the security guard at the Tacachale front gate
22 was responsible for inspecting the paperwork authorizing the
23 outing to Ginnie Springs and ensuring that all occupants were
24 properly restrained and was otherwise required to ensure the
25 safety of the van's occupants, and

26 WHEREAS, the security guard failed to ensure that all
27 occupants were wearing their seatbelts, that the van had the
28 appropriate number of occupants, and that the right rear tire
29 of the van was properly inflated, and

30 WHEREAS, after leaving the facility and instead of
31 going to Ginnie Springs, Laura Bailey, Patricia Chapman,

1 Christine Decker, Pauline Hodge, and the other residents were
2 taken to a location where Rachuel Sercey and Evertice Cole
3 illegally consumed drugs and alcohol, leaving Laura Bailey,
4 Patricia Chapman, Christina Decker, Pauline Hodge, and the
5 other residents improperly supervised and unattended during
6 this time, and

7 WHEREAS, after illegally consuming drugs and alcohol,
8 Rachel Sercey and Evertice Cole returned to the unsupervised
9 residents and began to drive back to Tacachale, with Rachuel
10 Sercey at the wheel, and

11 WHEREAS, Rachuel Sercey, without protest from Evertice
12 Cole, operated the van in a negligent, reckless, and dangerous
13 manner, including, but not limited to, driving at excessive
14 speeds and ignoring an under-inflated right rear tire, and

15 WHEREAS, on April 19, 1998, Rachuel Sercey and Evertice
16 Cole were in the course and scope of their employment when
17 they took Laura Bailey, Patricia Chapman, Christina Decker,
18 Pauline Hodge, and other residents on the scheduled field
19 trip, and

20 WHEREAS, Evertice Cole had a duty to intervene on
21 behalf of the occupants of the facility-owned van and prevent
22 the accident, but did nothing to prevent Rachuel Sercey from
23 causing the accident, and

24 WHEREAS, the representatives of the deceased and
25 insured have been required to retain counsel and otherwise
26 incur expenses and costs as a result of the actions of the
27 Department of Children and Family Services and its employees,
28 NOW, THEREFORE,

29

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

31

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

3 Section 2. The sum of \$6 million is appropriated out
4 of funds in the State Treasury to the credit of the Department
5 of Children and Family Services to be paid to Kathleen
6 McCarthy individually and as personal representative of the
7 Estate of Laura Bailey, George Decker and Joan Decker
8 individually and as co-personal representatives of the Estate
9 of Christina Decker, William Chapman and Geraldine Chapman
10 individually and William Chapman as personal representative of
11 the Estate of Patricia Chapman, and Rusha Williams as legal
12 guardian of Pauline Hodge as relief for their losses.

13 Section 3. The Comptroller is directed to draw
14 warrants in the total amount of \$6 million in favor of
15 Kathleen McCarthy individually and as personal representative
16 of the Estate of Laura Bailey, George Decker and Joan Decker
17 individually and as co-personal representatives of the Estate
18 of Christina Decker, William Chapman and Geraldine Chapman
19 individually and William Chapman as the personal
20 representative of the Estate of Patricia Chapman, and Rusha
21 Williams as legal guardian of Pauline Hodge, out of funds in
22 the State Treasury, to the credit of the Department of
23 Children and Family Services not otherwise appropriated, and
24 the Treasurer is directed to pay the same out of those funds.

25 Section 4. This act shall take effect upon becoming a
26 law.

27
28 *****

29 SENATE SUMMARY

30 Provides an appropriation for the relief of specified
31 persons who have sustained losses due to the actions of
the Department of Children and Family Services.