

By Senator Pruitt

27-65A-02

1 A bill to be entitled
2 An act for the relief of Kimberly Godwin;
3 providing an appropriation to compensate her
4 for violations of her rights and for injuries
5 she sustained as a result of the negligence of
6 the Department of Children and Family Services;
7 providing an effective date.

8
9 WHEREAS, Kimberly Godwin is a profoundly retarded young
10 woman who was in the custody and supervision of the Department
11 of Children and Family Services at all times relevant hereto,
12 and

13 WHEREAS, Kimberly Godwin has the IQ of a young child,
14 is nonverbal, is incontinent, stands 3 feet 11 inches tall,
15 and requires constant care and supervision, and

16 WHEREAS, in August 1985, Kimberly Godwin was
17 transferred to the Schenck Group Home in Ft. Pierce, Florida,
18 by the Department of Children and Family Services due to a
19 confirmed abuse finding that she was severely beaten and
20 abused at another facility licensed and supervised by the
21 department, and

22 WHEREAS, the Schenck Group Home was licensed,
23 supervised, and operated by the Department of Children and
24 Family Services, and

25 WHEREAS, from 1989 through 1992, teachers and
26 administrators at Kimberly Godwin's St. Lucie County school
27 suspected the abuse and neglect of her by the Schenck Group
28 Home and the department and documented multiple incidents of
29 such in her school records, and

30 WHEREAS, between 1990 and 1991, teachers at Kimberly
31 Godwin's school suspected, due to her missed menstrual cycle

1 and other signs of abuse and neglect, that she was being
2 sexually abused, and

3 WHEREAS, the department admits that in September 1991,
4 it violated Kimberly Godwin's rights under the Bill of Rights
5 for the Developmentally Disabled and that because of its
6 negligence, Kimberly was raped and impregnated by the group
7 home operator's 16-year-old son, who was not approved to
8 reside in the house, and

9 WHEREAS, a Ft. Pierce jury determined that Kimberly
10 Godwin suffered noneconomic damages of \$1 million as a result
11 of the trauma of the sexual battery and impregnation, and

12 WHEREAS, the department has admitted that it violated
13 Kimberly Godwin's rights and was negligent for failing to
14 discover her pregnancy until she was more than 20 weeks
15 pregnant, and

16 WHEREAS, Kimberly Godwin was denied prompt and
17 appropriate medical care because the department and the group
18 home did not want her pregnancy revealed, and

19 WHEREAS, a Ft. Pierce jury determined that Kimberly
20 Godwin suffered noneconomic damages of \$500,000 as a result of
21 this abuse, neglect, and violation of her rights, and

22 WHEREAS, while the abuse and neglect of Kimberly Godwin
23 by the Schenck Group Home was known to the department, it did
24 not remove her from that group home and did not notify her
25 parents about the pregnancy or about the abuse and neglect,
26 and

27 WHEREAS, when her parents were finally notified by a
28 guardian ad litem appointed by the court, Kimberly's mother,
29 Darlene Godwin, now deceased, immediately came to her aid and
30 removed Kimberly from the custody of the department's group
31 home, at which time Kimberly was suffering from pneumonia,

1 anemia, and dehydration as a result of continued medical
2 neglect, requiring her to be hospitalized for 1 week, and

3 WHEREAS, Kimberly Godwin was so severely anemic and her
4 condition was so poor that the doctors who initially evaluated
5 her ordered multiple blood transfusions and tests to rule out
6 leukemia, and

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

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

16 WHEREAS, among other incidents of abuse and neglect
17 inflicted upon Kimberly Godwin and documented by the St. Lucie
18 County School District, there were reports in 1989 that
19 Kimberly received disfiguring burns on her upper thigh
20 inflicted at the Schenck Group Home, which the department
21 admits were caused by its negligence and violation of
22 Kimberly's rights under the Bill of Rights for the
23 Developmentally Disabled, and

24 WHEREAS, a Ft. Pierce jury determined that Kimberly
25 Godwin suffered noneconomic damages of \$500,000 as a result of
26 that abuse, neglect, and violation of her rights, and

27 WHEREAS, the jury also determined that Kimberly Godwin
28 suffered \$5 million in economic damages caused by her rape,
29 impregnation, abuse, neglect, and the violation of her rights
30 under the Bill of Rights for the Developmentally Disabled by
31 the Department of Children and Family Services, and

1 WHEREAS, at trial, the jury heard unrefuted testimony
2 that Kimberly Godwin requires extraordinary services that have
3 not been provided by the department, and

4 WHEREAS, the jury determined that the abuse and neglect
5 of Kimberly Godwin while living at the Schenck Group Home has
6 made her incapable of living in a group home or other
7 residential placement, thus greatly increasing the cost of her
8 habilitative care over her lifetime, estimated to be
9 approximately 51 years, and

10 WHEREAS, Kimberly Godwin resides with her father, Jimmy
11 Godwin, and her family is committed to providing individual
12 home care to ensure her safety for the remainder of her life,
13 and

14 WHEREAS, on March 28, 2000, a jury awarded to the
15 guardianship of Kimberly Godwin a total of \$8 million in
16 damages, and \$21,555.30 for litigation costs was subsequently
17 awarded by the court as a result of the abuse, neglect, and
18 violation of rights which were documented beginning in 1989
19 and continuing until her removal from the department's custody
20 in 1992, and

21 WHEREAS, on April 12, 2000, the trial court entered a
22 Final Judgment in the amount of \$8 million against the
23 Department of Children and Family Services, and

24 WHEREAS, on April 19, 2000, the trial court denied the
25 department's motions for new trial and remittitur, and the
26 department did not appeal either the jury's verdict or the
27 court's orders upholding the verdict, and

28 WHEREAS, only \$400,000 of the outstanding judgments,
29 which total \$8,021,555.30, exclusive of any interest, has been
30 paid, leaving a balance due of \$7,621,555.30, NOW, THEREFORE,
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1 Be It Enacted by the Legislature of the State of Florida:

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

Section 2. There is appropriated from the General Revenue Fund to the Department of Children and Family Services the sum of \$7,621,555.30 for the benefit of Kimberly Godwin, a portion of which is to be used to purchase an annuity for her which must be used for the habilitative care of Kimberly Godwin over the duration of her lifetime and as relief for the violations of her rights and for injuries and damages she sustained as a result of the department's wrongful conduct.

Section 3. The Comptroller is directed to draw a warrant or warrants in favor of Jimmy Godwin, Guardian of Kimberly Godwin, in the total sum of \$7,621,555.30 upon funds of the Department of Children and Family Services in the State Treasury, and the State Treasurer is directed to pay the same out of such funds in the State Treasury.

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

SENATE SUMMARY

Provides an appropriation for the relief of Kimberly Godwin for violations of her rights and for injuries and damages she sustained as a result of the negligence of the Department of Children and Family Services.