

By the Committee on Finance and Taxation; and Senator Pruitt

314-2148-02

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

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

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

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

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

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

WHEREAS, between 1990 and 1991, teachers at Kimberly  
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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3 Section 1. The facts stated in the preamble to this  
4 act are found and declared to be true.

5 Section 2. There is appropriated from the  
6 Administrative Trust Fund of the Department of Children and  
7 Family Services for fiscal years 2002-2003 through 2011-2012,  
8 the sum of \$760,000 for the benefit of Kimberly Godwin, to be  
9 paid to MassMutual Insurance Company to finance and purchase a  
10 structured settlement for her, which includes an annuity that  
11 must be used for the habilitative care of Kimberly Godwin over  
12 the duration of her lifetime and as a relief for the  
13 violations of her rights and for injuries and damages she  
14 sustained as a result of the department's wrongful conduct.

15 Section 3. The Comptroller is directed to draw a  
16 warrant for fiscal years 2002-2003 through 2011-2012 in the  
17 favor of MassMutual Insurance Company of Springfield,  
18 Massachusetts, as the financier of the structured settlement  
19 and annuity contract issuer for Kimberly Godwin, in the amount  
20 of \$760,000 upon funds from the Department of Children and  
21 Family Services' Administrative Trust Fund.

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

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25 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
26 COMMITTEE SUBSTITUTE FOR  
27 SB 22

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29 The Committee Substitute changes the appropriation from  
30 "\$7,621,555.30 from the General Revenue Fund in favor of Jimmy  
31 Godwin, Guardian of Kimberly Godwin" to a 10-year  
appropriation of \$760,000 from the Administrative Trust Fund  
of the Department of Children and Family Services to be paid  
to MassMutuel Insurance Company to finance and purchase a  
structured settlement, which includes an annuity, which must  
be used for the care of Kimberly Godwin.