

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.

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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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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 or any successor thereto, or in the event  
8 sufficient funds are not available from that fund to make  
9 payment for any given year, or otherwise, from the General  
10 Revenue Fund, the sum of \$760,000 each year for fiscal years  
11 2002-2003 inclusive through 2011-2012, to be paid to an  
12 insurance company or other financial institution admitted and  
13 authorized to issue annuity contracts in this state selected  
14 by the guardian of Kimberly Godwin, to finance and purchase a  
15 structured settlement for the benefit of Kimberly Godwin,  
16 which shall include an annuity that must be used for the  
17 habilitative care of Kimberly Godwin over the duration of her  
18 lifetime and as a relief for the violations of her rights and  
19 for injuries and damages she sustained as a result of the  
20 department's wrongful conduct.

21 Section 3. The Comptroller is directed to execute all  
22 necessary agreements to implement the payment of this claim,  
23 and to draw a warrant in the amount of \$760,000 each fiscal  
24 year beginning in 2002-2003 through 2011-2012, inclusive, in  
25 favor of the financier of the structured settlement and to be  
26 paid from the Administrative Trust Fund of the Department of  
27 Children and Family Services or any successor thereto, or in  
28 the event sufficient funds are not available from that fund to  
29 make payment for any given fiscal year, or otherwise, from the  
30 General Revenue Fund. The financing of this structured  
31 settlement shall constitute a state debt or obligation as

1 defined in section 216.0442(1)(j), Florida Statutes, as now in  
2 effect.

3           Section 4. The Department of Children and Family  
4 Services shall include in its annual legislative budget  
5 request a specific appropriation for funds sufficient to make  
6 the payment due under this section during each relevant fiscal  
7 year beginning in fiscal year 2003-2004 and inclusive through  
8 2011-2012.

9           Section 5. The appropriation made and authorized by  
10 this section shall be deemed a continuing appropriation within  
11 the meaning of section 216.011(1)(i), Florida Statutes, as in  
12 effect on the date this act becomes a law.

13           Section 6. This act shall take effect upon becoming a  
14 law.

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