

By Senator Lawson

6-00154A-08

200846__

1 A bill to be entitled

2 An act for the relief of Marissa Amora; providing an
3 appropriation to compensate her, a minor, by and through
4 her legal guardians, Dawn and Rick Amora, for injuries she
5 sustained as a result of the negligence of employees of
6 the Department of Children and Family Services; providing
7 a limitation on the payment of fees and costs; providing
8 an effective date.

9
10 WHEREAS, on November 8, 2000, Moesha Sylencieux, now known
11 as Marissa Amora, who was not yet 2 years old, was brought to the
12 emergency room of Bethesda Memorial Hospital in Palm Beach
13 County, Florida, and

14 WHEREAS, her natural mother told the hospital staff that
15 Marissa Amora fell from a standing position and now could not
16 walk, and while she was at the hospital, Marissa Amora could not
17 bear weight on her legs, and

18 WHEREAS, during a 3-day admission that followed, an MRI
19 showed the presence of an unexplained mass in the area of Marissa
20 Amora's spine, and she was transferred to Miami Children's
21 Hospital for further testing and treatment, and

22 WHEREAS, the Child Protection Team in Palm Beach County, as
23 well as hospital physicians in Boca Raton and Delray Beach,
24 determined that Marissa Amora's problems were due to injuries
25 caused by physical abuse, and

26 WHEREAS, Marissa Amora was admitted to Miami Children's
27 Hospital on November 11, 2000, arriving with a working diagnosis
28 of "spinal cord tumor," and during the following month she was
29 fully evaluated for the tumor that was presumed to have accounted

6-00154A-08

200846__

30 | for her sudden inability to walk, with all test results normal,
31 | and

32 | WHEREAS, on December 4, 2000, Marissa Amora underwent a
33 | biopsy of the mass, which disclosed that the mass was benign, and

34 | WHEREAS, during Marissa Amora's approximately 1-month
35 | admission to Miami Children's Hospital, several incidents gave
36 | rise to suspicions concerning Marissa Amora's safety on the part
37 | of the hospital nursing staff and social workers, and

38 | WHEREAS, the hospital staff and social workers were
39 | concerned about the natural mother's lack of involvement and
40 | about the interactions between the child and her natural mother
41 | who, over the course of Marissa Amora's hospitalization at Miami
42 | Children's Hospital, came to the hospital only four times, and
43 | who failed to show up even though hospital social workers
44 | provided transportation money and directions, and

45 | WHEREAS, when Marissa Amora's natural mother did come to the
46 | hospital, she was observed spanking Marissa Amora by families of
47 | other patients while Marissa was in her hospital bed, and

48 | WHEREAS, Marissa Amora's natural mother failed to come to
49 | the hospital on December 9, 2000, which was the day that her
50 | daughter was supposed to be discharged, and

51 | WHEREAS, with Marissa Amora waiting to be discharged, the
52 | social workers at the hospital appropriately called the
53 | Department of Children and Family Services, whereupon the call
54 | was designated as one for "special needs," given the mother's
55 | lack of ability or desire to care for her daughter, together with
56 | issues concerning a general lack of bonding, and

57 | WHEREAS, the case was assigned to DCF Protective
58 | Investigator Shirley Arias in District 11, Miami-Dade County, who

6-00154A-08

200846__

59 | began her investigation by going to Miami Children's Hospital on
60 | Monday, December 11, 2000, whereupon she began compiling a list
61 | of concerns and risk factors that indicated possible physical
62 | abuse, and

63 | WHEREAS, Ms. Arias reviewed the hospital records and found
64 | that there was evidence that Marissa Amora had an unexplained
65 | fracture of her clavicle and that the mother had been assisted
66 | and counseled by the social workers at the hospital, but the
67 | social workers continued to have serious concerns for the
68 | mother's desire and ability to care for her child, and

69 | WHEREAS, Ms. Arias observed that Marissa Amora would cry
70 | when her mother walked into her hospital room and then would calm
71 | when her mother would leave, and also observed a general lack of
72 | bonding between mother and child, and

73 | WHEREAS, on Monday, December 11, 2000, a meeting took place
74 | in the hospital between Ms. Arias, the natural mother, and Dr.
75 | Jefry Biehler, an in-house director of the Child Advocacy Team
76 | who was asked to be involved at the request of the hospital's
77 | social workers, and

78 | WHEREAS, Dr. Biehler interviewed the mother in the presence
79 | of DCF investigator Arias and reported that he "had concerns"
80 | recommending to Ms. Arias that the child should not be given to
81 | the mother unless a home study were completed to ensure that the
82 | environment in the home was safe for the child, and

83 | WHEREAS, the home study was never performed by DCF, and

84 | WHEREAS, instead of initiating a home study, DCF
85 | investigator Arias contacted the Palm Beach County DCF District 9
86 | office, whereupon the matter was referred to Protective
87 | Investigator Evelyn Diaz Collins, and

6-00154A-08

200846__

88 WHEREAS, DCF investigator Collins failed to conduct or
89 initiate a home study, and

90 WHEREAS, Ms. Collins instead went to the family home while
91 Marissa Amora was still in the hospital, met with the natural
92 mother, noting that the apartment was void of any baby items, and
93 subsequently informed the natural mother that she would need to
94 purchase a crib and that Ms. Collins would return the following
95 week to make sure that she did so, and

96 WHEREAS, Ms. Collins never returned to the home, and did no
97 followup whatsoever, and

98 WHEREAS, the home study was never completed, yet DCF
99 supervisors in Miami incorrectly believed that a home study was
100 completed, and incorrectly assumed that there was no threat to
101 the child, and

102 WHEREAS, DCF investigator Arias met with her supervisor, who
103 advised that she should refer the case to the DCF legal
104 department, whereupon Ms. Arias consulted with the DCF legal
105 department on Wednesday, December 13, 2000, and was advised that
106 Marissa Amora should not be allowed to leave Miami Children's
107 Hospital until DCF had completed a home study, spoken with
108 Marissa Amora's natural father in New Jersey, assigned staff to
109 the case from the child protection team, and conducted criminal
110 checks on the appropriate parties, and

111 WHEREAS, deposition and trial testimony by Ms. Arias
112 revealed she understood that the above items were DCF "marching
113 orders" and that the child should not have been allowed to leave
114 the hospital until all of the tasks were completed, and

115 WHEREAS, on December 14, 2000, Ms. Arias completed a DCF
116 Initial Child Safety Assessment form, as required by statute,

6-00154A-08

200846__

117 | which showed that Ms. Arias and her supervisor concluded that
118 | physical abuse was suspected, and

119 | WHEREAS, Ms. Arias testified at trial that Marissa Amora
120 | should never have been allowed to go home, that sending her home
121 | was wrong, and that Ms. Arias should have voiced her objection to
122 | her DCF supervisors, and

123 | WHEREAS, Ms. Arias' immediate DCF supervisor, Robert Boyak,
124 | testified under oath that the case should have been assigned to
125 | the child protection team before Marissa Amora was allowed to
126 | leave the hospital, but that no such referral to the child
127 | protection team was completed, and

128 | WHEREAS, on December 14, 2000, Ms. Arias began contacting
129 | the natural mother for the purpose of having Marissa Amora picked
130 | up from the hospital without having completed a home study,
131 | assigned the case to the child protection team, or spoken with
132 | Marissa Amora's natural father in New Jersey, all of which were
133 | advised by the DCF legal department on December 13, 2000, and

134 | WHEREAS, the DCF log written by DCF investigator Arias
135 | reflects numerous contacts throughout the following week from the
136 | social workers at Miami Children's Hospital challenging DCF's
137 | decision to allow Marissa Amora to go home with her mother, and

138 | WHEREAS, calls placed by the hospital's social workers to
139 | the DCF Palm Beach County district office and to supervisors in
140 | the chain of command at DCF were not returned, and

141 | WHEREAS, on January 11, 2001, Marissa Amora was again
142 | admitted to the hospital's pediatric intensive care unit for
143 | treatment for massive brain injuries, leg fractures, arm
144 | fractures, and multiple other injuries that the Chief of
145 | Pediatric Intensive Care opined were likely due to being swung by

6-00154A-08

200846__

146 her arms and legs and smashed into a wall or the floor, and

147 WHEREAS, Marissa Amora remained in the hospital for several
148 months while undergoing a series of operations, including brain
149 surgery to relieve pressure from her massive brain bleed, a
150 tracheotomy to establish and maintain her ability to breathe, and
151 abdominal surgery to allow for nutrition to pass directly into
152 her stomach due to an inability to eat, and

153 WHEREAS, Marissa Amora has since required multiple other
154 surgeries to address many of the chronic problems caused by her
155 severe brain injury, and continues to require tube feedings
156 because she is unable to eat food by mouth, and

157 WHEREAS, Marissa Amora will require a high level of care
158 throughout the remainder of her life, and

159 WHEREAS, DCF employees in the Miami-Dade County and the Palm
160 Beach County offices admitted to making critical errors with
161 regard to this case and that department procedures were not
162 followed, and

163 WHEREAS, as a result of negligence by employees of the
164 Department of Children and Family Services, Marissa Amora has
165 suffered permanent and profound brain damage and will require
166 total care for the remainder of her life, and

167 WHEREAS, the Life Care Plan for Marissa Amora, as authored
168 by former HRS District 11 Administrator and Certified Life Care
169 Planner Lawrence Forman, M.Ed., has a present value cost of
170 \$23,116,052.50, and

171 WHEREAS, DCF's own experts, Sharon Griffin, M.Ed.,
172 Habilitationist, and Bernard F. Pettingill, Jr., Ph.D.,
173 Economist, developed a Life Care Plan for Marissa Amora, which
174 would cost \$19,767,867.00, and

6-00154A-08

200846__

175 WHEREAS, Marissa Amora's past medical care and expenses,
176 including liens, amount to \$355,778.83, and

177 WHEREAS, a jury determined Marissa Amora's total economic
178 loss in the past and for the future to be \$16,537,349.08, and her
179 past and future noneconomic damages, which include disability,
180 loss of enjoyment of life, bodily injury, physical and mental
181 pain and suffering, and disfigurement, to be \$10,312,500, NOW,
182 THEREFORE,

183

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

185

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

188 Section 2. The sum of \$26,849,849.08 is appropriated from
189 the Administrative Trust Fund of the Department of Children and
190 Family Services or any successor thereto, or in the event
191 sufficient funds are not available from that fund, from the
192 General Revenue Fund, to be paid to Dawn and Rick Amora as legal
193 guardians of Marissa Amora, to finance the habilitative care of
194 Marissa Amora over the duration of her lifetime and as relief for
195 the violations of her rights and for injuries and damages she
196 sustained as a result of the department's wrongful or negligent
197 conduct.

198 Section 3. The Chief Financial Officer is directed to
199 execute all necessary agreements to implement the payment of this
200 claim, and to draw a warrant in the amount of \$35,133,132 in
201 favor of Dawn and Rick Amora as legal guardians of Marissa Amora,
202 upon funds of the Department of Children and Family Services in
203 the State Treasury, and the Chief Financial Officer is directed

6-00154A-08

200846__

204 to pay the same out of such funds in the State Treasury.

205 Section 4. This award is intended to provide the sole
206 compensation for all present and future claims arising out of the
207 factual situation described in this act which resulted in injury
208 to Marissa Amora. The total amount paid for attorney's fees,
209 lobbying fees, costs, and other similar expenses relating to this
210 claim may not exceed 25 percent of the amount awarded under this
211 act.

212 Section 5. This act shall take effect upon becoming a law.