



359438

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2015	.	
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The Committee on Judiciary (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 110

and insert:

this claim, the remaining funds shall be placed into an  
irrevocable trust created for C.M.H. for

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 29 - 99

and insert:



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12           and which C.M.H.'s parents did not receive, and  
13           WHEREAS, the testimony of the DCF caseworker confirms that  
14 DCF was aware that 10-year-old J.W. and C.M.H., who was then 8  
15 years old, were sharing the same bedroom, and  
16           WHEREAS, on October 31, 2002, J.W. sexually assaulted a 4-  
17 year-old child who was visiting C.M.H.'s home, and  
18           WHEREAS, although DCF knew that J.W. was a sexual offender,  
19 the agency did not remove him from the home, and  
20           WHEREAS, DCF failed to implement a written safety plan as  
21 required by DCF Operating Procedure 175-88, and  
22           WHEREAS, after November 2002, J.W.'s behavioral problems  
23 escalated, and he deliberately squeezed C.M.H.'s pet mouse to  
24 death in front of C.M.H. and made physical threats toward  
25 C.M.H., and  
26           WHEREAS, C.M.H.'s parents decided to begin the process of  
27 adopting J.W., whom they considered a part of their family, and  
28           WHEREAS, the family subsequently became aware that J.W.  
29 needed significant mental health treatment, including placement  
30 in a residential treatment facility, and  
31           WHEREAS, the family was informed by DCF that they would not  
32 be granted visitation privileges if J.W. was removed from their  
33 home and placed in a residential treatment facility, and  
34           WHEREAS, in January 2004, the family began taking classes  
35 to train to be therapeutic foster parents to better meet J.W.'s  
36 needs, and  
37           WHEREAS, in March 2004, after C.M.H.'s mother was diagnosed  
38 with Stage 4, terminal, metastatic colon cancer, which had  
39 spread to her liver, C.M.H.'s father, contacted DCF to postpone  
40 the adoption, and



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41 WHEREAS, in April 2004, DCF closed out J.W.'s dependency  
42 file, leaving J.W. in the custody of the family without any  
43 subsidies or assistance, and

44 WHEREAS, in April 2005, C.M.H.'s father wrote DCF and the  
45 juvenile judge assigned to the case to request help in placing  
46 J.W. in a residential treatment facility, however, DCF provided  
47 no assistance, and

48 WHEREAS, on July 28, 2005, after a physical altercation  
49 between J.W. and C.M.H., C.M.H. disclosed to his parents that  
50 J.W. had sexually assaulted him, and J.W. was immediately  
51 removed from the home, and

52 WHEREAS, C.M.H. sustained severe and permanent psychiatric  
53 injury, including posttraumatic stress disorder, as a result of  
54 the sexual and emotional abuse perpetrated by J.W., and without  
55 immediate interventions will face a lifetime of dysfunction,  
56 trauma, and tragedy, and

57 WHEREAS, the sexual assault of C.M.H. by J.W. was  
58 predictable and preventable, and

59 WHEREAS, on April 14, 2006, a lawsuit, Case No. 2006 CA  
60 003727, was filed in the 15th Judicial Circuit in and for Palm  
61 Beach County on behalf of C.M.H., by and through his parents,  
62 alleging negligence on the part of DCF and its providers which  
63 allowed the perpetration of sexual abuse against and the  
64 victimization of C.M.H. by J.W., and

65 WHEREAS, DCF aggressively defended and denied the  
66 allegations in the claim and a jury trial was set in Palm Beach  
67 County, and

68 WHEREAS, on January 2, 2014, after a jury trial and verdict  
69 for \$5 million, the court entered a judgment against DCF for



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70 \$5,176,543.08, including costs, and

71 WHEREAS, the Division of Risk Management of the Department  
72 of Financial Services has paid \$100,000, as allowed under s.  
73 768.28, Florida Statutes, for costs, less than half of the total  
74 amount of litigation costs expended by plaintiff's counsel to  
75 litigate this case and to complete the trial, and

76 WHEREAS, C.M.H., now 21 years of age, is at a vulnerable  
77 stage in his life and urgently needs to recover the balance of  
78 the judgment awarded him so that his psychiatric injuries may be  
79 addressed and he may lead a normal life, and

80 WHEREAS, the balance of the judgment is to be paid into an  
81 irrevocable trust through the passage of this claim bill in the  
82 amount of \$5,076,543.08, NOW, THEREFORE,