

By the Committee on Judiciary; and Senator Garcia

590-03326-16

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1 A bill to be entitled
2 An act for the relief of C.M.H.; providing an
3 appropriation to compensate C.M.H. for injuries and
4 damages sustained as a result of the negligence of the
5 Department of Children and Families, formerly known as
6 the Department of Children and Family Services;
7 providing a limitation on the payment of fees and
8 costs; providing an effective date.
9

10 WHEREAS, beginning at a very young age, J.W. was subjected
11 to incidents of physical and sexual abuse, which caused him to
12 become sexually aggressive, and

13 WHEREAS, on September 5, 2002, J.W., then in the custody of
14 the Department of Children and Families (DCF), formerly known as
15 the Department of Children and Family Services, was placed into
16 the home of C.M.H., whose parents volunteered to have J.W. live
17 in their home, and

18 WHEREAS, prior to the placement of J.W. with the family,
19 DCF obtained a comprehensive behavioral health assessment that
20 stated that J.W. was sexually aggressive and recommended
21 specific precautions and training for potential foster parents,
22 which C.M.H.'s parents did not receive, and

23 WHEREAS, the testimony of the DCF caseworker confirms that
24 DCF was aware that then-10-year-old J.W. and then-8-year-old
25 C.M.H. were sharing a bedroom, and

26 WHEREAS, on October 31, 2002, J.W. sexually assaulted a 4-
27 year-old child who was visiting C.M.H.'s home, and

28 WHEREAS, although DCF knew that J.W. was sexually
29 aggressive, the agency did not remove him from the home, and

30 WHEREAS, after November 2002, J.W.'s behavioral problems
31 escalated, and he deliberately squeezed C.M.H.'s pet mouse to
32 death in front of C.M.H. and made physical threats toward

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33 C.M.H., and

34 WHEREAS, C.M.H.'s parents began to discuss adopting J.W.,
35 whom they considered a part of their family, and

36 WHEREAS, in January 2004, the family began taking
37 therapeutic parenting classes to better meet J.W.'s needs, and

38 WHEREAS, in March 2004, after C.M.H.'s mother was diagnosed
39 with Stage 4, terminal, metastatic colon cancer, which had
40 spread to her liver, C.M.H.'s father, requested that DCF stop
41 the process of having the family designated as "long-term
42 nonrelative caregivers," and

43 WHEREAS, in April 2004, DCF closed out J.W.'s dependency
44 file, leaving J.W. in the custody of the family, and

45 WHEREAS, in April 2005, C.M.H.'s father wrote DCF and the
46 juvenile judge assigned to the case to request help in placing
47 J.W. in a residential treatment facility, 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

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

57 WHEREAS, on April 14, 2006, a lawsuit, Case No. 2006 CA
58 003727, was filed in the 15th Judicial Circuit in and for Palm
59 Beach County on behalf of C.M.H., by and through his parents,
60 alleging negligence on the part of DCF and its providers, which
61 allowed the perpetration of sexual abuse against and the

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62 victimization of C.M.H. by J.W., and

63 WHEREAS, a mutually agreeable settlement could not be
64 reached between all parties, and a jury trial was set in Palm
65 Beach County, and

66 WHEREAS, on January 2, 2014, after a jury trial and
67 verdict, the court entered a judgment against DCF for
68 \$5,176,543.08, including costs, and

69 WHEREAS, the Division of Risk Management of the Department
70 of Financial Services has paid the family of C.M.H. \$100,000, as
71 allowed under s. 768.28, Florida Statutes, and

72 WHEREAS, C.M.H., now 22 years of age, is at a vulnerable
73 stage in his life and urgently needs to recover the balance of
74 the judgment awarded him so that his psychiatric injuries may be
75 addressed and he may lead a normal life, and

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

79
80 Be It Enacted by the Legislature of the State of Florida:

81
82 Section 1. The facts stated in the preamble to this act are
83 found and declared to be true.

84 Section 2. There is appropriated from the General Revenue
85 Fund to the Department of Children and Families the sum of
86 \$5,076,543.08 for the relief of C.M.H. for the personal injuries
87 and damages he sustained. After payment of attorney fees and
88 costs, lobbying fees, and other similar expenses relating to
89 this claim, the remaining funds shall be placed into an
90 irrevocable trust created for C.M.H. for his exclusive use and

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91 benefit.

92 Section 3. The Chief Financial Officer is directed to draw
93 a warrant in favor of C.M.H. in the sum of \$5,076,543.08 upon
94 funds of the Department of Children and Families in the State
95 Treasury, and the Chief Financial Officer is directed to pay the
96 same out of such funds in the State Treasury not otherwise
97 appropriated.

98 Section 4. The amount paid by the Department of Children
99 and Families pursuant to s. 768.28, Florida Statutes, and the
100 amount awarded under this act are intended to provide the sole
101 compensation for all present and future claims arising out of
102 the factual situation described in the preamble to this act
103 which resulted in the personal injuries and damages to C.M.H.
104 The total amount of attorney fees and lobbying fees relating to
105 this claim may not exceed 25 percent of the amount awarded under
106 this act.

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