

By Senator DiCeglie

18-00355-23

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1 A bill to be entitled
2 An act for the relief of Michael Barnett, individually
3 and as the natural parent and legal guardian of R.B.;
4 providing an appropriation to compensate them for
5 injuries and damages sustained as a result of the
6 negligence of the Department of Children and Families;
7 providing a limitation on the payment of attorney
8 fees; providing an effective date.

9
10 WHEREAS, in September 2010, Patrick Dell entered the
11 Riviera Beach residence of his estranged wife, Natasha Whyte-
12 Dell, where he fatally shot her and four of her children and
13 severely wounded a fifth child by shooting him in the neck, and
14 WHEREAS, Dell committed suicide shortly after exiting the
15 residence, and

16 WHEREAS, several months before the shootings, on January
17 26, 2010, the abuse hotline of the Department of Children and
18 Families received a phone call about an incident that occurred
19 in December 2009, and

20 WHEREAS, according to the police report, while Whyte-Dell
21 was visiting a friend, Dell charged at and threatened Whyte-Dell
22 with a knife, verbally threatened to kill her, and flattened all
23 four tires on her vehicle, and

24 WHEREAS, later that same morning, Dell was arrested for
25 aggravated assault with a deadly weapon and criminal mischief,
26 and

27 WHEREAS, over the course of the following month, the
28 department conducted an investigation but subsequently closed
29 the case file on February 25, 2010, after concluding that the

18-00355-23

202390__

30 children were not at significant risk of harm, and

31 WHEREAS, a history of threats of violence existed before
32 Dell's shootings of Whyte-Dell and her children, and

33 WHEREAS, the Riviera Beach Police Department had responded
34 to the Whyte-Dell home 34 times in the 4 years preceding the day
35 of the shootings, and

36 WHEREAS, 11 of those police responses were for domestic
37 violence disturbances, and

38 WHEREAS, the department knew or had reason to know of the
39 threats and had numerous opportunities to remove the children
40 from that dangerous environment, yet did not act and closed
41 their case file, and

42 WHEREAS, the department's southeast regional director
43 acknowledged that the department could have and should have done
44 more for the family and admitted that the investigation was
45 "subpar," and

46 WHEREAS, the department's child protective investigator
47 assigned to the case failed to follow policies and procedures,
48 and

49 WHEREAS, the investigator himself had been accused of
50 domestic violence and was facing pending domestic violence
51 charges, and

52 WHEREAS, because of the investigator's errors and
53 omissions, the department failed to follow up on warning signs
54 that any reasonable investigation should have evaluated,
55 analyzed, and acted upon, especially after discovering the
56 investigator's inherent conflict of interest, and

57 WHEREAS, the department failed to perform any secondary
58 review or reinvestigation after the investigator's pending

18-00355-23

202390__

59 domestic violence charges were made public, and

60 WHEREAS, in an appeal to the Supreme Court of Florida, the
61 court held that the Whyte-Dell family shootings are to be
62 treated as a single incident or occurrence, and

63 WHEREAS, Michael Barnett, individually and as the natural
64 parent and legal guardian of R.B., and as the personal
65 representative of the estates of D.B., D.B., and B.B., entered
66 into a settlement agreement and release and a consent final
67 judgment with the State of Florida and the Department of
68 Children and Families, and

69 WHEREAS, per the settlement agreement and release, Michael
70 Barnett and R.B. agree to accept the total amount of \$160,000,
71 including attorney fees and costs, and

72 WHEREAS, through the consent final judgment, judgment was
73 entered in favor of Michael Barnett and R.B. and against the
74 department in the amount of \$296,400, NOW, THEREFORE,

75

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

77

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

80 Section 2. The sum of \$296,400 is appropriated from the
81 General Revenue Fund to the Department of Children and Families
82 for the relief of Michael Barnett, individually and as the
83 natural parent and legal guardian of R.B., for injuries and
84 damages sustained.

85 Section 3. The Chief Financial Officer is directed to draw
86 a warrant in favor of Michael Barnett and R.B. in the sum of
87 \$296,400 upon funds of the Department of Children and Families

18-00355-23

202390__

88 in the State Treasury and to pay the same out of such funds in
89 the State Treasury.

90 Section 4. The amount paid by the Department of Children
91 and Families pursuant to s. 768.28, Florida Statutes, and the
92 amount awarded under this act are intended to provide the sole
93 compensation for all present and future claims arising out of
94 the factual situation described in this act which resulted in
95 injuries and damages to Michael Barnett and R.B. The total
96 amount paid for attorney fees relating to this claim may not
97 exceed 25 percent of the total amount awarded under this act.

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