

By Senator Calatayud

38-00116-24

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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 Mr. Barnett  
5       and R.B. for injuries and damages sustained as a  
6       result of the negligence of the Department of Children  
7       and Families; providing a limitation on compensation  
8       and the payment of attorney fees; providing an  
9       effective date.

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

15       WHEREAS, Dell committed suicide shortly after exiting the  
16       residence, and

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

21       WHEREAS, according to the police report of the December  
22       2009 incident, while Natasha Whyte-Dell was visiting a friend,  
23       Patrick Dell charged at and threatened Ms. Whyte-Dell with a  
24       knife, verbally threatened to kill her, and flattened all four  
25       tires on her vehicle, and

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

29       WHEREAS, over the course of the following month, the

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30 Department of Children and Families conducted an investigation  
31 but subsequently closed the case file on February 25, 2010,  
32 after concluding that the children were not at significant risk  
33 of harm, and

34 WHEREAS, a history of threats of violence existed before  
35 Patrick Dell's shootings of Natasha Whyte-Dell and her children,  
36 and

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

40 WHEREAS, 11 of those police responses were for domestic  
41 violence disturbances, and

42 WHEREAS, the Department of Children and Families knew or  
43 had reason to know of the threats and had numerous opportunities  
44 to remove the children from that dangerous environment, yet did  
45 not act and had closed its case file, and

46 WHEREAS, the department's southeast regional director  
47 acknowledged that the department could have and should have done  
48 more for the family and admitted that the investigation was  
49 "subpar," and

50 WHEREAS, the department's child protective investigator  
51 assigned to the case failed to follow policies and procedures,  
52 and

53 WHEREAS, the investigator himself had been accused of  
54 domestic violence and was facing pending domestic violence  
55 charges, and

56 WHEREAS, because of the investigator's errors and  
57 omissions, the department failed to follow up on warning signs  
58 that any reasonable investigation should have evaluated,

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59 analyzed, and acted upon, especially after discovering the  
60 investigator's inherent conflict of interest, and

61 WHEREAS, the department failed to perform any secondary  
62 review or reinvestigation of the Whyte-Dell case after the  
63 investigator's pending domestic violence charges were made  
64 public, and

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

68 WHEREAS, Michael Barnett, individually and as the natural  
69 parent and legal guardian of R.B., and as the personal  
70 representative of the estates of D.B., D.B., and B.B., entered  
71 into a settlement agreement and release and a consent final  
72 judgment with the State of Florida and the Department of  
73 Children and Families, and

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

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

80

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

82

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

85 Section 2. The sum of \$296,400 is appropriated from the  
86 General Revenue Fund to the Department of Children and Families  
87 for the relief of Michael Barnett, individually and as the

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88 natural parent and legal guardian of R.B., for injuries and  
89 damages sustained.

90 Section 3. The Chief Financial Officer is directed to draw  
91 a warrant in favor of Michael Barnett and R.B. in the sum of  
92 \$296,400 upon funds of the Department of Children and Families  
93 in the State Treasury and to pay the same out of such funds in  
94 the State Treasury.

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

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