

Senate Bill No. 4

An act for the relief of Joseph Bellamy Farver; providing an appropriation to compensate him for injuries and damages sustained as a result of the negligence of the Department of Children and Family Services, formerly the Department of Health and Rehabilitative Services; providing for reimbursement of all unreimbursed medical payments made by Medicaid up to the date that this bill becomes a law; providing an effective date.

WHEREAS, Joseph Bellamy Farver was born Joseph Bellamy on May 16, 1985, at Broward General Medical Center in Broward County, Florida, and

WHEREAS, although Joseph Bellamy was healthy and normal and was seen by pediatricians as he met his normal development goals for the first three to five months of his life, Joseph Bellamy's parents possessed borderline intelligence levels, were emotionally unstable, and could not handle their son, and

WHEREAS, it became evident to friends and neighbors of the Bellamy family that Joseph Bellamy was abused, and

WHEREAS, between August 1985 and November 1985, twenty-seven phone calls were placed to the State of Florida Department of Health and Rehabilitative Services regarding Joseph Bellamy, and on all occasions the Department of Health and Rehabilitative Services failed to protect Joseph Bellamy from child abuse, as was their duty and responsibility, and

WHEREAS, on October 22, 1985, the Department of Health and Rehabilitative Services received a telephone call informing them that Joseph Bellamy had been slapped, hit, picked up by one arm, and thrown across a bed, and

WHEREAS, in response to the call, the Department of Health and Rehabilitative Services did nothing, and

WHEREAS, the rules and regulations of the former Department of Health and Rehabilitative Services required the department to conduct a home visit pursuant to such a call and that the child be seen within 24 hours of the receipt of a telephone call by the department alleging child abuse, and

WHEREAS, on November 6, 1985, Joseph Bellamy was admitted to Broward General Medical Center with bruises all over his body, having been shaken, having been brain-damaged to the point where he had retinal hemorrhages, hemorrhages in his eyes, a brain hemorrhage, and being in a coma as a result of physical abuse inflicted by his parents, and

WHEREAS, the former Department of Health and Rehabilitative Services knew or should have known that such injuries would occur to Joseph Bellamy because they received telephone calls from friends and relatives of Joseph Bellamy, including Joseph Bellamy's grandparents, informing the department that "the parents were retarded," and

WHEREAS, it is clear that the former Department of Health and Rehabilitative Services, its investigators, and its counselors should have performed their duty by removing Joseph Bellamy from the Bellamy home, thus protecting Joseph Bellamy from abuse, beatings, and brain damage, and

WHEREAS, had Joseph Bellamy been taken into protective custody, the terrible physical problems from which he now suffers would never have occurred, and

WHEREAS, Joseph Bellamy Farver will suffer severe neurological medical conditions for the remainder of his life, as well as other irreversible and permanent medical conditions, and

WHEREAS, Joseph Bellamy Farver has bilateral subdural hematomas, left parietal intraparenchymal hemorrhage, and subarachnoid hemorrhages, and

WHEREAS, Joseph Bellamy Farver has a communicating hydrocephalus with a post right ventricular peritoneal shunt, and

WHEREAS, Joseph Bellamy Farver has a seizure disorder, secondary to his head injury, and

WHEREAS, Joseph Bellamy Farver has multiple contractures of his heel cords, his hamstrings, his hips, and his elbows, and

WHEREAS, Joseph Bellamy Farver is profoundly retarded but capable of interacting and showing emotions and responses, and

WHEREAS, the number of seizures which Joseph Bellamy Farver experiences are increasing, and

WHEREAS, Joseph Bellamy Farver takes 30-milligram tablets of phenobarbital five times a day for his seizures, and

WHEREAS, Joseph Bellamy Farver takes 2 milligrams of valium for assistance in sleeping, and

WHEREAS, Joseph Bellamy Farver also takes 125 milligrams of valporic acid four times a day, and

WHEREAS, Joseph Bellamy Farver receives physical therapy, occupational therapy, and speech therapy on a daily basis at school, and is seen on a routine basis by a pediatrician, a neurologist, an orthopedist, and a neurosurgeon, and

WHEREAS, following the final incident of abuse against Joseph Bellamy, Joseph Bellamy became a ward of the State of Florida, and

WHEREAS, in 1993, Joseph Bellamy was adopted by Jeffrey and Helen Farver, who reside in Panama City, and

WHEREAS, his adoptive parents care for him in his present condition, which requires that they tend to his every need, which is a full-time undertaking and requires more resources than they can afford, and

WHEREAS, a lawsuit was brought against the State of Florida Department of Health and Rehabilitative Services on behalf of Joseph Bellamy Farver by his court-appointed guardian ad litem, and

WHEREAS, after a lengthy jury trial, the jury found the Department of Health and Rehabilitative Services liable for Joseph Bellamy Farver's injuries and awarded him damages in the amount of \$7,000,000, and

WHEREAS, the Department of Health and Rehabilitative Services did not appeal the verdict, and has paid \$100,000 pursuant to the statutory limits of liability set forth in section 768.28, Florida Statutes, NOW, THEREFORE,

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

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

Section 2. There is appropriated from nonrecurring general revenue the sum of \$4,500,000 to be paid as relief to Joseph Bellamy Farver for injuries and damages sustained.

Section 3. The Comptroller shall draw a warrant from nonrecurring general revenue in the sum of \$4,500,000 payable to Helen and Jeff Farver, parents and legal guardians of Joseph Bellamy Farver, to be placed in the Trust created for the benefit of Joseph Bellamy Farver, a minor, to compensate him for injuries and damages sustained. Upon the death of Joseph Bellamy Farver, the Trust balance shall revert to the general revenue of the State of Florida pursuant to the terms of the Trust agreement.

Section 4. The governmental entity responsible for payment of the warrant shall pay to the Florida Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due to the agency shall be equal to all unreimbursed medical payments paid by Medicaid up to the date that this bill becomes a law.

Section 5. This act shall take effect July 1, 1999.

Approved by the Governor June 11, 1999.

Filed in Office Secretary of State June 11, 1999.