

Committee Substitute for Senate Bill No. 22

An act for the relief of Kimberly Godwin; providing an appropriation to compensate her for violations of her rights and for injuries she sustained as a result of the negligence of the Department of Children and Family Services; providing an effective date.

WHEREAS, Kimberly Godwin is a profoundly retarded young woman who was in the custody and supervision of the Department of Children and Family Services at all times relevant hereto, and

WHEREAS, Kimberly Godwin has the IQ of a young child, is nonverbal, is incontinent, stands 3 feet 11 inches tall, and requires constant care and supervision, and

WHEREAS, in August 1985, Kimberly Godwin was transferred to the Schenck Group Home in Ft. Pierce, Florida, by the Department of Children and Family Services due to a confirmed abuse finding that she was severely beaten and abused at another facility licensed and supervised by the department, and

WHEREAS, the Schenck Group Home was licensed, supervised, and operated by the Department of Children and Family Services, and

WHEREAS, from 1989 through 1992, teachers and administrators at Kimberly Godwin's St. Lucie County school suspected the abuse and neglect of her by the Schenck Group Home and the department and documented multiple incidents of such in her school records, and

WHEREAS, between 1990 and 1991, teachers at Kimberly Godwin's school suspected, due to her missed menstrual cycle and other signs of abuse and neglect, that she was being sexually abused, and

WHEREAS, the department admits that in September 1991, it violated Kimberly Godwin's rights under the Bill of Rights for the Developmentally Disabled and that because of its negligence, Kimberly was raped and impregnated by the group home operator's 16-year-old son, who was not approved to reside in the house, and

WHEREAS, a Ft. Pierce jury determined that Kimberly Godwin suffered noneconomic damages of \$1 million as a result of the trauma of the sexual battery and impregnation, and

WHEREAS, the department has admitted that it violated Kimberly Godwin's rights and was negligent for failing to discover her pregnancy until she was more than 20 weeks pregnant, and

WHEREAS, Kimberly Godwin was denied prompt and appropriate medical care because the department and the group home did not want her pregnancy revealed, and

WHEREAS, a Ft. Pierce jury determined that Kimberly Godwin suffered noneconomic damages of \$500,000 as a result of this abuse, neglect, and violation of her rights, and

WHEREAS, while the abuse and neglect of Kimberly Godwin by the Schenck Group Home was known to the department, it did not remove her from that group home and did not notify her parents about the pregnancy or about the abuse and neglect, and

WHEREAS, when her parents were finally notified by a guardian ad litem appointed by the court, Kimberly's mother, Darlene Godwin, now deceased, immediately came to her aid and removed Kimberly from the custody of the department's group home, at which time Kimberly was suffering from pneumonia, anemia, and dehydration as a result of continued medical neglect, requiring her to be hospitalized for 1 week, and

WHEREAS, Kimberly Godwin was so severely anemic and her condition was so poor that the doctors who initially evaluated her ordered multiple blood transfusions and tests to rule out leukemia, and

WHEREAS, the department admits that its negligence caused Kimberly Godwin's deteriorating medical condition, and a jury determined that Kimberly suffered noneconomic damages of \$1 million as a result of this abuse, neglect, and violation of her rights, and

WHEREAS, because of her medical condition, it was determined that Kimberly Godwin could not safely give birth to a child, and a circuit court ordered a therapeutic abortion to protect Kimberly's life, and

WHEREAS, among other incidents of abuse and neglect inflicted upon Kimberly Godwin and documented by the St. Lucie County School District, there were reports in 1989 that Kimberly received disfiguring burns on her upper thigh inflicted at the Schenck Group Home, which the department admits were caused by its negligence and violation of Kimberly's rights under the Bill of Rights for the Developmentally Disabled, and

WHEREAS, a Ft. Pierce jury determined that Kimberly Godwin suffered noneconomic damages of \$500,000 as a result of that abuse, neglect, and violation of her rights, and

WHEREAS, the jury also determined that Kimberly Godwin suffered \$5 million in economic damages caused by her rape, impregnation, abuse, neglect, and the violation of her rights under the Bill of Rights for the Developmentally Disabled by the Department of Children and Family Services, and

WHEREAS, at trial, the jury heard unrefuted testimony that Kimberly Godwin requires extraordinary services that have not been provided by the department, and

WHEREAS, the jury determined that the abuse and neglect of Kimberly Godwin while living at the Schenck Group Home has made her incapable of living in a group home or other residential placement, thus greatly increasing the cost of her habilitative care over her lifetime, estimated to be approximately 51 years, and

WHEREAS, Kimberly Godwin resides with her father, Jimmy Godwin, and her family is committed to providing individual home care to ensure her safety for the remainder of her life, and

WHEREAS, on March 28, 2000, a jury awarded to the guardianship of Kimberly Godwin a total of \$8 million in damages, and \$21,555.30 for litigation costs was subsequently awarded by the court as a result of the abuse, neglect, and violation of rights which were documented beginning in 1989 and continuing until her removal from the department's custody in 1992, and

WHEREAS, on April 12, 2000, the trial court entered a Final Judgment in the amount of \$8 million against the Department of Children and Family Services, and

WHEREAS, on April 19, 2000, the trial court denied the department's motions for new trial and remittitur, and the department did not appeal either the jury's verdict or the court's orders upholding the verdict, and

WHEREAS, only \$400,000 of the outstanding judgments, which total \$8,021,555.30, exclusive of any interest, has been paid, leaving a balance due of \$7,621,555.30, 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 the Administrative Trust Fund of the Department of Children and Family Services or any successor thereto, or in the event sufficient funds are not available from that fund to make payment for any given year, or otherwise, from the General Revenue Fund, the sum of \$760,000 each year for fiscal years 2002-2003 inclusive through 2011-2012, to be paid to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state selected by the guardian of Kimberly Godwin, to finance and purchase a structured settlement for the benefit of Kimberly Godwin, which shall include an annuity that must be used for the habilitative care of Kimberly Godwin over the duration of her lifetime and as a relief for the violations of her rights and for injuries and damages she sustained as a result of the department's wrongful conduct.

Section 3. The Comptroller is directed to execute all necessary agreements to implement the payment of this claim, and to draw a warrant in the amount of \$760,000 each fiscal year beginning in 2002-2003 through 2011-2012, inclusive, in favor of the financier of the structured settlement and to be paid from the Administrative Trust Fund of the Department of Children and Family Services or any successor thereto, or in the event sufficient funds are not available from that fund to make payment for any given fiscal year, or otherwise, from the General Revenue Fund. The financing of this structured settlement shall constitute a state debt or obligation as defined in section 216.0442(1)(j), Florida Statutes, as now in effect.

Section 4. The Department of Children and Family Services shall include in its annual legislative budget request a specific appropriation for funds sufficient to make the payment due under this section during each relevant fiscal year beginning in fiscal year 2003-2004 and inclusive through 2011-2012.

Section 5. The appropriation made and authorized by this section shall be deemed a continuing appropriation within the meaning of section 216.011(1)(i), Florida Statutes, as in effect on the date this act becomes a law.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor June 5, 2002.

Filed in Office Secretary of State June 5, 2002.