

CHAPTER 2010-235

Committee Substitute for Senate Bill No. 60

An act for the relief of Pierreisna Archille; providing an appropriation to compensate Pierreisna Archille, a mentally disabled person, by and through Darlene Achille, Limited Guardian of Property for Pierreisna Archille, for injuries and damages sustained as a result of the negligence of employees of the Department of Children and Family Services; providing for reversion of funds; providing a limitation on the payment of attorney's fees, lobbying fees, costs, and other similar expenses relating to the claim; providing an effective date.

WHEREAS, Pierreisna Archille, a 28-year-old moderately retarded woman, has the cognitive ability of a child between kindergarten and first-grade level, and

WHEREAS, because of allegations of neglect against her biological mother and stepfather, Pierreisna Archille and her sisters, Darlene and Muriel, were placed in foster care in 1993, and

WHEREAS, in 1997, when Pierreisna Archille was 15 years old, the Archille children were placed in the foster home of Bonifacio and Josephine Velazquez, and

WHEREAS, the Velazquez foster home was licensed, supervised, and monitored by the Department of Children and Family Services and its employees and agents, and

WHEREAS, after placement of the Archille children in the foster home, Darlene Achille complained that Bonifacio Velazquez, the foster father, was sexually molesting her and was also molesting S.A., a toddler, and

WHEREAS, after these complaints were made, both Darlene and Muriel were removed from the Velazquez home, but Pierreisna Archille remained in the home, and

WHEREAS, between June of 1998 through June of 1999, Bonifacio Velazquez repeatedly raped and molested Pierreisna Archille, resulting in her impregnation and subsequent birth of a daughter, and

WHEREAS, after the birth of Pierreisna Archille's daughter, Takeisha, Pierreisna Archille's younger sister, Darlene, then 19 years old, undertook the responsibility of helping Pierreisna Archille take care of her daughter, and

WHEREAS, as a developmentally disabled person, Pierreisna Archille is in need of funds necessary for her to care for her daughter with the assistance of her sister, Darlene, and

WHEREAS, Pierreisna Archille continues to suffer nightmares and extreme emotional and psychological trauma as a result of the actions giving rise to this claim, and

WHEREAS, a life-care continuum was formulated by comprehensive rehabilitation consultants detailing the funds necessary to provide treatment to Pierreisna Archille, as well as to help provide for the support necessary for Pierreisna Archille to take care of her daughter, and

WHEREAS, Dr. Fred Raffa, an economist, reduced such cost to present value in the amount of \$4,067,431, and

WHEREAS, the dependency court appointed a Limited Guardian of Property for Pierreisna Archille for the purpose of assisting in obtaining compensation for her damages, and

WHEREAS, a lawsuit was filed on behalf of the Limited Guardian of Property for Pierreisna Archille in Naples, Florida, against the Department of Children and Family Services, and

WHEREAS, Pierreisna Archille, by and through her previous Limited Guardian of Property, Patrick Weber, and the Department of Children and Family Services agreed to mediation to resolve this matter and entered into a settlement agreement to compensate Pierreisna Archille for her damages and to provide a basis for this claim bill, and

WHEREAS, as a result of good-faith negotiations between the parties at a court-sanctioned mediation, the Department of Children and Family Services and the Limited Guardian of Property agreed that \$1.3 million is reasonable and fair compensation for Pierreisna Archille's damages, and

WHEREAS, the Department of Children and Family Services has already paid \$100,000 in accordance with the provisions of s. 768.28, Florida Statutes, and

WHEREAS, with respect to the \$100,000 already paid by the department, the appropriate parties agreed to deferred payment of attorney's fees and costs of plaintiff's counsel so that Pierreisna Archille could immediately have access to needed funds, and

WHEREAS, the Department of Children and Family Services desires to make good on its promise to Pierreisna Archille which was made in the Settlement Agreement to compensate her for the irreparable harm she suffered in the foster care system, and

WHEREAS, the Department of Children and Family Services recognizes that Pierreisna Archille was not only victimized by her caretaker, but that employees of the department broke a sacred trust to her to oversee her safety and care, and

WHEREAS, the Department of Children and Family Services supports a claim bill in the amount of \$1.2 million, 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. (1) There is appropriated from the Federal Grants Trust Fund within the Department of Children and Family Services the sum of \$1.2 million for the relief of Pierreisna Archille, by and through Darlene Achille, Limited Guardian of Property for Pierreisna Archille, for injuries and damages sustained. After payment of attorney's fees and costs, lobbying fees, and other similar expenses relating to this claim as provided for in this section, outstanding medical liens, and other immediate needs, the remaining funds shall be placed in a special-needs trust created for the exclusive use and benefit of Pierreisna Archille. Any funds remaining in the special-needs trust upon the death of Pierreisna Archille, after payment of any outstanding Medicaid liens, shall become available solely to benefit Pierreisna Archille's daughter, Takeisha Archille. If Takeisha Archille predeceases her mother, Pierreisna Archille, all such sums shall revert to the General Revenue Fund of the State of Florida.

(2) Any amount awarded under this act pursuant to the waiver of sovereign immunity permitted under s. 768.28, Florida Statutes, and this award are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in the preamble to this act which resulted in the injury to Pierreisna Archille. The total amount paid for attorney's fees, lobbying fees, costs, and other similar expenses relating to this claim may not exceed 25 percent of the amount awarded under subsection (1).

Section 3. The Chief Financial Officer is directed to draw a warrant in the sum of \$1.2 million payable to Pierreisna Archille, by and through Darlene Achille, Limited Guardian of Property for Pierreisna Archille, upon funds in the State Treasury to the credit of the Department of Children and Family Services, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury not otherwise appropriated.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 3, 2010.

Filed in Office Secretary of State June 3, 2010.