

## CHAPTER 2018-164

### Committee Substitute for House Bill No. 6509

An act for the relief of C.M.H.; providing an appropriation to compensate C.M.H. for injuries and damages sustained as a result of the negligence of the Department of Children and Families, formerly known as the Department of Children and Family Services; requiring certain funds to be placed into an irrevocable trust; providing a limitation on fees and costs; providing an effective date.

WHEREAS, beginning at a very young age, J.W. was subjected to incidents of physical and sexual abuse, which caused him to become sexually aggressive, and

WHEREAS, on September 6, 2002, J.W., then in the custody of the Department of Children and Families (DCF), formerly known as the Department of Children and Family Services, was placed into the home of C.M.H., whose parents volunteered to have J.W. live in their home, and

WHEREAS, prior to the placement of J.W. with the family, DCF obtained a comprehensive behavioral health assessment that stated that J.W. was sexually aggressive and that recommended specific precautions and training for potential foster parents, which C.M.H.'s parents did not receive, and

WHEREAS, the testimony of the DCF caseworker confirmed that DCF was aware that then-10-year-old J.W. and then-8-year-old C.M.H. were sharing a bedroom, and

WHEREAS, on October 31, 2002, J.W. sexually assaulted a 4-year-old child who was visiting C.M.H.'s home, and

WHEREAS, although DCF knew that J.W. was sexually aggressive, the agency did not remove him from the home, and

WHEREAS, after November 2002, J.W.'s behavioral problems escalated, and he deliberately squeezed C.M.H.'s pet mouse to death in front of C.M.H. and made physical threats toward C.M.H., and

WHEREAS, C.M.H.'s parents began to discuss adopting J.W., whom they considered a part of their family, and

WHEREAS, in January 2004, the family began taking therapeutic parenting classes to better meet J.W.'s needs, and

WHEREAS, in March 2004, after C.M.H.'s mother was diagnosed with Stage 4, terminal, metastatic colon cancer, which had spread to her liver, C.M.H.'s father requested that DCF stop the process of having the family designated as "long-term nonrelative caregivers," and

WHEREAS, in April 2004, DCF closed out J.W.'s dependency file, leaving J.W. in the custody of the family, and

WHEREAS, in April 2005, C.M.H.'s father wrote DCF and the juvenile judge assigned to the case to request help in placing J.W. in a residential treatment facility, and

WHEREAS, in July 2005, after a physical altercation between J.W. and C.M.H., C.M.H. disclosed to his parents that J.W. had sexually assaulted him, and J.W. was immediately removed from the home, and

WHEREAS, C.M.H. sustained severe and permanent psychiatric injuries, including posttraumatic stress disorder, as a result of the sexual and emotional abuse perpetrated by J.W., and

WHEREAS, the sexual assault of C.M.H. by J.W. was predictable and preventable, and

WHEREAS, on April 14, 2006, a lawsuit, Case No. 2006 CA 003727, was filed in the 15th Judicial Circuit in and for Palm Beach County on behalf of C.M.H., by and through his parents, alleging negligence on the part of DCF and its providers which allowed the perpetration of sexual abuse against and the victimization of C.M.H. by J.W., and

WHEREAS, a mutually agreeable settlement could not be reached, and a jury trial was held in Palm Beach County, and

WHEREAS, on January 2, 2014, after a jury trial and verdict, the court entered a judgment against DCF for \$5,176,543.08, including costs, and

WHEREAS, the Division of Risk Management of the Department of Financial Services paid the family of C.M.H. \$100,000, the statutory limit at that time under s. 768.28, Florida Statutes, and

WHEREAS, C.M.H., now a young adult, is at a vulnerable stage in his life and urgently needs to recover the balance of the judgment awarded him so that his psychiatric injuries may be addressed and he may lead a normal life, and

WHEREAS, the balance of the judgment is to be paid into an irrevocable trust through the passage of this claim bill in the amount of \$5,076,543.08, 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 General Revenue Fund to the Department of Children and Families the sum of \$5,076,543.08 for the relief of C.M.H. for the personal injuries and damages he sustained. After payment

of attorney fees and costs, lobbying fees, and other similar expenses relating to this claim, the remaining funds shall be placed into an irrevocable trust created for C.M.H. for his exclusive use and benefit.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of C.M.H. in the sum of \$5,076,543.08 upon funds of the Department of Children and Families in the State Treasury, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

Section 4. The amount paid by the Department of Children and Families pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act 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 personal injuries and damages to C.M.H. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed \$1,116,839.48, the total amount paid for lobbying fees may not exceed \$152,296.29, and the total amount paid for costs and other similar expenses relating to this claim may not exceed \$1,642.16.

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

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.