

By Senator Lawson

6-00129A-10

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1 A bill to be entitled

2 An act relating to the relief of Marissa Amora in
3 furtherance of chapter 2008-258, Laws of Florida;
4 providing a continuing appropriation to compensate
5 Marissa Amora for injuries and damages sustained as a
6 result of negligence by employees of the Department of
7 Children and Family Services; requiring a specified
8 legislative budget request; providing a limitation on
9 the payment of attorney's fees and costs; providing
10 legislative intent as to the waiver of all lien
11 interests held by the state; providing an effective
12 date.

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14 WHEREAS, the Legislature intended to provide for additional
15 compensation totaling \$18.2 million over a 10-year period
16 beginning in the 2008-2009 fiscal year to compensate Marissa
17 Amora for injuries and damages sustained as a result of
18 negligence by employees of the Department of Children and Family
19 Services, and

20 WHEREAS, on May 6, 2008, chapter 2008-258, Laws of Florida,
21 was approved by the Governor and enacted into law to compensate
22 Marissa Amora, but the act did not fulfill the Legislature's
23 intent, and

24 WHEREAS, the act provided compensation in the amount of
25 \$1.2 million for Marissa Amora, beginning in the 2008-2009
26 fiscal year only, and \$1.7 million for the next 9 consecutive
27 years thereafter through the 2017-2018 fiscal year, for a total
28 of \$16.5 million over 10 years, not \$18.2 million as the
29 Legislature intended, and

6-00129A-10

201040__

30 WHEREAS, compensation in the amount of \$1.2 million was
31 provided to Marissa Amora for the 2008-2009 fiscal year, but the
32 Chief Financial Officer was not authorized to draw a warrant for
33 any of the payments in the amounts of \$1.7 million, and

34 WHEREAS, compensation in the amount of \$1.7 million was
35 provided to Marissa Amora for the 2009-2010 fiscal year, and

36 WHEREAS, additional legislation is needed to fulfill the
37 Legislature's intent to provide compensation to Marissa Amora
38 totaling \$18.2 million, NOW, THEREFORE,

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

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42 Section 1. The facts stated herein and in the preamble of
43 chapter 2008-258, Laws of Florida, have been declared to be true
44 and are adopted.

45 Section 2. There is appropriated from the Administrative
46 Trust Fund of the Department of Children and Family Services or
47 any successor thereto, or, if sufficient funds are not available
48 from that fund to make payment for any given year or otherwise,
49 from the General Revenue Fund, the sum of \$1.7 million each year
50 beginning in the 2009-2010 fiscal year, inclusive, and for the
51 next 9 consecutive years thereafter until the 2018-2019 fiscal
52 year, to be paid to an insurance company or other financial
53 institution admitted and authorized to issue annuity contracts
54 in this state and selected by the guardian of Marissa Amora, to
55 finance and purchase a structured settlement for the benefit of
56 Marissa Amora, which shall include an annuity that must be used
57 for the habilitative care of Marissa Amora over the duration of
58 her lifetime and as relief and compensation for the injuries and

6-00129A-10

201040

59 damages she sustained as a result of the department's wrongful
60 conduct.

61 Section 3. Beginning in the 2009-2010 fiscal year and for
62 the next 8 fiscal years thereafter, the Department of Children
63 and Family Services shall include in its annual legislative
64 budget request a specific appropriation for \$1.7 million of
65 nonrecurring funds for the relief of Marissa Amora in the
66 Administrative Trust Fund or the General Revenue Fund, for a
67 total of \$15.3 million to be paid over 9 consecutive years.

68 Section 4. The Chief Financial Officer is directed to
69 execute all necessary agreements to implement the payment of
70 this claim and to draw a warrant in the amount of \$1.7 million
71 each fiscal year beginning in the 2010-2011 fiscal year,
72 inclusive, in favor of the financier of the structured
73 settlement, to be paid from the Administrative Trust Fund of the
74 Department of Children and Family Services or any successor
75 thereto, or, if sufficient funds are not available from that
76 fund to make payment for any given year or otherwise, from the
77 General Revenue Fund. The financing of this structured
78 settlement constitutes a state debt or obligation as defined in
79 s. 216.0442(1), Florida Statutes.

80 Section 5. The amount awarded under chapter 2008-258, Laws
81 of Florida, and any subsequent awards appropriated up to a total
82 of \$18.2 million in nonrecurring funds, inclusive of this award,
83 are intended to provide the sole compensation for all present
84 and future claims arising out of the factual situation described
85 in the preamble to chapter 2008-258, Laws of Florida, which
86 resulted in the injury to Marissa Amora. The amount of
87 attorney's fees, lobbying fees, costs, and other similar

6-00129A-10

201040__

88 expenses relating to this claim may not exceed 25 percent of
89 each annual payment awarded pursuant to this act.

90 Section 6. It is the intent of the Legislature that all
91 lien interests held by the state resulting from the treatment
92 and care of Marissa Amora for the events described in the
93 preamble to chapter 2008-258, Laws of Florida, are waived and
94 extinguished, and the claimant's guardianship is relieved of any
95 obligation to reimburse Medicaid, Medicare, or the Agency for
96 Health Care Administration for such expenses.

97 Section 7. The appropriation made and authorized by this
98 act is deemed a continuing appropriation within the meaning of
99 s. 216.011(1), Florida Statutes.

100 Section 8. This act shall take effect upon becoming a law.