

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 908

An Act for the relief of Beverly Q. Russell.

[H 1821]

Approved March 29, 1999

Whereas, Beverly Q. Russell was employed as a psychiatric nurse by the Department of Mental Health, Mental Retardation and Substance Abuse Services at Catawba Hospital on and prior to July 21, 1994; and

Whereas, on July 21, 1994, while Mrs. Russell was performing her nursing duties, she was violently attacked by a patient; and

Whereas, the patient who attacked Mrs. Russell had a history of violence and had selectively refused the medicine prescribed for him; and

Whereas, the patient was located on a level of the hospital designed for patients demonstrating compliance and improvement and requiring less security; and

Whereas, although Mrs. Russell called for help when the patient attacked her, nearby employees arrived too late to prevent injury to Mrs. Russell; and

Whereas, Mrs. Russell pressed criminal charges against the patient, who was taken into police custody upon his release from Catawba Hospital; and

Whereas, the patient was released by the magistrate on \$100 bond against the strong advice of the investigating detective; and

Whereas, the patient failed to appear at his scheduled court date; and

Whereas, the patient was finally located in Florida and returned to the Circuit Court of the County of Roanoke; and

Whereas, the patient was tried and found guilty of the felony of malicious wounding under § 18.2-51 of the Code of Virginia and sentenced to ten years' incarceration at the Virginia Department of Corrections, with six years suspended; and

Whereas, the patient pleaded guilty to the felony of failure to appear under § 19.2-128 B of the Code of Virginia and sentenced to one year incarceration at the Virginia Department of Corrections with nine months suspended; and

Whereas, the patient was tried and found guilty of the misdemeanor of assault and battery under § 18.2-57 of the Code of Virginia and was sentenced to incarceration in jail for twelve months; and

Whereas, Mrs. Russell suffers from, and on account of, personal physical injuries including, but not limited to, posttraumatic stress disorder and major depression, and has experienced major alterations to her lifestyle as a result of the attack and as result of fear of future harm from the patient; and

Whereas, although Beverly Q. Russell would like to return to work as a nurse, she is not currently able to return to work, has suffered lost wages and has incurred losses greater than those which are covered by insurance and workers' compensation; and

Whereas, Beverly Q. Russell has no other means to obtain relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That there is hereby allocated from the general liability insurance trust fund administered by the Division of Risk Management of the Department of General Services for the relief of Beverly Q. Russell on account of her personal physical injuries the amount of \$129,500 to be paid by checks issued by the State Treasurer on warrant of the Comptroller to Beverly Q. Russell, subject to a release by her of all claims (other than claims for workers' compensation and the Virginia Retirement System) against the Commonwealth and its political subdivisions, agencies, instrumentalities, officers or employees in connection with or arising out of the aforesaid occurrence.*

§ 2. *The award granted hereby is subject to the following conditions: (i) subject to the release of claims by Mrs. Russell, \$64,750 is payable on or before July 1, 1999; (ii) the remaining amount of the award is payable in five equal installments of \$12,950 on July 1 of each year from 2000 through 2004; and (iii) the amounts payable annually shall be paid each July 1 only upon receipt by the preceding June 1 of each year by the Department of Mental Health, Mental Retardation and Substance Abuse Services of a written physical and mental evaluation of Mrs. Russell which finds her unable to return to work as a psychiatric nurse. In addition, no further payments shall be made if (i) the Virginia Retirement System Medical Board determines that Mrs. Russell may work as a nonpsychiatric nurse without losing her Virginia Retirement System disability benefits and (ii) Mrs. Russell obtains employment as a nonpsychiatric nurse.*