

By the Committee on Judiciary; and Senator Benacquisto

590-01953-17

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1 A bill to be entitled

2 An act for the relief of L.T.; providing an
3 appropriation to compensate L.T. for injuries and
4 damages sustained as a result of the negligence of
5 employees of the Department of Children and Families,
6 formerly known as the Department of Children and
7 Family Services; providing legislative intent
8 regarding certain Medicaid liens; providing a
9 limitation on the payment of attorney fees; providing
10 an effective date.

11
12 WHEREAS, on August 15, 1995, the Department of Children and
13 Families removed 14-month-old L.T. and her infant brother from
14 their mother's custody because they were not receiving adequate
15 care, and

16 WHEREAS, the Department of Children and Families
17 temporarily placed the children into the home of the children's
18 great aunt and uncle, Vicki and Eddie Thomas, and

19 WHEREAS, a background check that was conducted shortly
20 after L.T. and her brother were placed in the Thomases' home
21 indicated that Mr. Thomas had once been convicted of a
22 misdemeanor and possession of narcotics equipment, and

23 WHEREAS, the background check also revealed that Ms. Thomas
24 had been charged with, but apparently not convicted of, larceny,
25 and

26 WHEREAS, the background check did not reveal any prior
27 history of violence, sex offenses, or child abuse, and

28 WHEREAS, after conducting a home study, interviews, and an
29 investigation, the Department of Children and Families concluded

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30 that the Thomases were capable of providing a safe home for L.T.
31 and her brother and approved the placement, and

32 WHEREAS, on August 21, 1996, approximately 1 year after
33 L.T. and her brother had been placed in the Thomases' home, Mr.
34 Thomas was charged with committing a lewd and lascivious act on
35 a child under the age of 16, and

36 WHEREAS, the alleged victim was the 13-year-old daughter of
37 a woman with whom Mr. Thomas was having an extramarital affair,
38 and the state later amended the charge to add a count for sexual
39 battery on a child by a familial or custodial authority, and

40 WHEREAS, after two hung jury trials in January and March of
41 1997, Mr. Thomas pled no contest in April 1997 to committing a
42 lewd, lascivious, and indecent act on a child under the age of
43 16, and

44 WHEREAS, Mr. Thomas was sentenced to 5 years' probation and
45 required to attend sex offender classes and register as a sex
46 offender, and

47 WHEREAS, on May 9, 1997, 1 month after Mr. Thomas entered
48 his plea and was convicted of a child sex crime, the Department
49 of Children and Families recommended, and the judge approved, an
50 order allowing Mr. Thomas to return home and have unsupervised
51 contact with the children, and

52 WHEREAS, although the policies of the Department of
53 Children and Families barred Mr. Thomas from being able to adopt
54 a child because of his conviction for a sex act with a child and
55 his sex offender status, the policies did not prohibit the
56 continued placement of L.T. and her brother in the Thomases'
57 home, and so the children remained with the Thomases, and

58 WHEREAS, the Department of Children and Families

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59 subsequently recommended to the court the permanent, long-term
60 placement of L.T. and her brother in the Thomases' home and
61 further recommended that the children be removed from protective
62 services, with no further supervision by the department, and

63 WHEREAS, on March 3, 2000, following the recommendation of
64 the Department of Children and Families, the court approved L.T.
65 and her brother's long-term placement with the Thomases and
66 removed the children from continued protective services, and

67 WHEREAS, on March 24, 2003, an abuse hotline call to the
68 Department of Children and Families reported that L.T. was being
69 abused by Mr. Thomas and that both Mr. and Ms. Thomas were using
70 drugs in the children's presence, and

71 WHEREAS, the next day, a child protective investigator for
72 the Department of Children and Families interviewed L.T. and her
73 brother while in the presence of Ms. Thomas, and neither child
74 was asked to be interviewed outside Ms. Thomas's presence, and

75 WHEREAS, L.T. and her brother denied the abuse allegations
76 while Ms. Thomas watched and listened to them, and

77 WHEREAS, results from new background checks and drug
78 screens were negative, and the Department of Children and
79 Families concluded that L.T. and her brother were not at risk of
80 abuse and closed the case, and

81 WHEREAS, on February 24, 2005, L.T. ran away from the
82 Thomases' home and was found by law enforcement officers, and

83 WHEREAS, L.T. ran away from home because she had been
84 repeatedly sexually and physically abused by Mr. Thomas and
85 physically, verbally, and emotionally abused for years by Ms.
86 Thomas, and

87 WHEREAS, L.T. and her brother were finally removed from the

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88 Thomases' home in 2005, and

89 WHEREAS, during her adolescent and teenaged years, L.T. was
90 the subject of repeated Baker Act proceedings and suicide
91 attempts and was in and out of inpatient and outpatient
92 psychiatric facilities, and

93 WHEREAS, L.T. has been seen and treated by physicians and
94 mental health care professionals who have diagnosed her with
95 depression, posttraumatic stress disorder, anxiety disorder, and
96 other disorders attributed to her trauma, and

97 WHEREAS, although L.T. struggles with the symptoms of
98 depression, posttraumatic stress disorder, and anxiety disorder,
99 she is now 22 years of age, is married to a Naval Petty Officer
100 who is stationed at Naval Air Station Jacksonville, is the
101 mother of 2 very young daughters, and attends Florida State
102 College at Jacksonville as she works toward her goal of becoming
103 a mental health care professional specializing in treating
104 children who have been abused, neglected, or traumatized, and

105 WHEREAS, a lawsuit was brought on L.T.'s behalf in state
106 and federal courts alleging negligence pursuant to s. 768.28,
107 Florida Statutes, and civil rights violations pursuant to 42
108 U.S.C. s. 1983, and

109 WHEREAS, the civil rights claims were disposed of by the
110 trial court, but the negligence claims continued to be
111 litigated, and a jury trial of the case was set in Leon County,
112 and

113 WHEREAS, the parties attended a court-ordered mediation and
114 on June 21, 2010, agreed to a mediated settlement under which
115 L.T. will receive \$1 million, of which \$200,000 has been paid,
116 and the claim for the remaining \$800,000 is being submitted

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117 through this bill, which the Department of Children and Families
118 agrees to support, NOW, THEREFORE,

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

121
122 Section 1. The facts stated in the preamble to this act are
123 found and declared to be true.

124 Section 2. There is appropriated from the General Revenue
125 Fund to the Department of Children and Families the sum of
126 \$800,000 for the relief of L.T. for the injuries and damages she
127 sustained. After payment of attorney fees and costs, lobbying
128 fees, and other similar expenses relating to this claim;
129 outstanding medical liens other than Medicaid liens; and other
130 immediate needs, the remaining funds shall be placed into a
131 trust created for the exclusive use and benefit of L.T. The
132 trust shall be administered by an institutional trustee of
133 L.T.'s choosing and shall terminate upon L.T.'s 25th birthday,
134 at which time the remaining principal and interest shall revert
135 to L.T. or, if she predeceases the termination of the trust, to
136 her heirs, beneficiaries, or estate.

137 Section 3. The Chief Financial Officer is directed to draw
138 a warrant in favor of L.T. in the sum of \$800,000 upon funds in
139 the State Treasury to the credit of the Department of Children
140 and Families, and the Chief Financial Officer is directed to pay
141 the same out of such funds in the State Treasury not otherwise
142 appropriated.

143 Section 4. It is the intent of the Legislature that any and
144 all Medicaid liens arising from the treatment and care of the
145 injuries and damages to L.T. described in this act shall be

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146 waived or paid by the state.

147 Section 5. The amount awarded pursuant to the waiver of
148 sovereign immunity under s. 768.28, Florida Statutes, and the
149 amount awarded under this act are intended to provide the sole
150 compensation for all present and future claims arising out of
151 the factual situation described in the preamble to this act
152 which resulted in the injuries and damages to L.T. The total
153 amount paid for attorney fees relating to this claim may not
154 exceed 25 percent of the amount awarded under this act.

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