

By Senator Davis

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A bill to be entitled

An act for the relief of H.H. by the Department of Children and Families; providing an appropriation to compensate H.H. for injuries and damages sustained as a result of the negligence of the department; providing legislative intent; providing a limitation on compensation and the payment of certain fees and costs; providing an effective date.

WHEREAS, on May 3, 2017, H.H. was a healthy 18-month-old developing normally, when the Department of Children and Families received its first child abuse hotline report regarding H.H., which alleged substance abuse by H.H.'s mother and stepfather and that the mother and stepfather were selling drugs out of, and harboring a fugitive in, their home, and

WHEREAS, during the course of its investigation of the initial child abuse hotline report, the department discovered that the stepfather had been released from the Department of Corrections 7 months before initiation of the Department of Children and Families' investigation after being incarcerated for 3 and a half years, was on probation, had been married to the mother for only 1 month and had been dating the mother for only 3 months before initiation of the department's investigation, and had a significant and dangerous criminal history that showed a pattern of impulsivity and violence, and

WHEREAS, at the time of the initial child abuse hotline report, the stepfather had been involved in at least 35 incidents resulting in police reports, and his criminal history, ranging from 2003 through 2013, included a 2003 charge for

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30 driving under the influence, marijuana possession, and drug
31 equipment possession; a 2003 charge for driving under the
32 influence and possession of liquor by a person under the age of
33 21; a 2003 charge for driving while his license was suspended or
34 revoked, including a prior suspension for refusal to submit to a
35 lawful test of breath; a 2003 charge for burglary; 2004 felony
36 convictions for possession of cocaine, possession of drug
37 paraphernalia, and burglary of a dwelling, for which he served
38 concurrent sentences of 270 days and 55 days in jail; a 2004
39 arrest for resisting an officer without violence during a
40 disturbance; a 2005 charging affidavit for violation of a court
41 order and making threats toward his girlfriend's parents; a 2007
42 battery charge; a 2007 felony conviction for fleeing and
43 eluding; a 2009 arrest for violation of probation relating to
44 drug charges; a 2009 charge for marijuana possession, violation
45 of driver license restrictions, and drug equipment possession; a
46 2010 arrest for possession of a controlled substance and
47 possession of a firearm by a convicted felon; a 2010 arrest for
48 involvement in a marijuana-growing operation and the cultivation
49 and manufacturing of cannabis; 2011 felony convictions for
50 possession of a Schedule II controlled substance, possession of
51 a firearm by a convicted felon, manufacture of cannabis,
52 possession of cocaine, fleeing and eluding, burglary of a
53 dwelling, possession of drug paraphernalia, driving while his
54 license was suspended, battery of a law enforcement officer, and
55 escape, for which he was sentenced to two 366-day sentences in
56 prison; and 2013 felony convictions for resisting arrest with
57 violence, fleeing or attempting to elude, driving while his
58 license was suspended or revoked, battery on a law enforcement

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officer, and escape, for which he was sentenced to 4 years in prison, and

WHEREAS, during the course of the department's investigation of the initial child abuse hotline report, H.H.'s stepfather refused to submit to a drug test, and

WHEREAS, during the course of the department's investigation of the initial abuse report, H.H.'s mother admitted to smoking marijuana and tested positive for marijuana, and

WHEREAS, despite the department's discoveries regarding risk of harm to H.H. during the investigation, the department failed to thoroughly investigate the child abuse hotline report by failing to speak with any person who may have had information regarding H.H.'s safety, such as family members or the stepfather's probation officer, and failing to request relevant records and to refer the family to appropriate services, and

WHEREAS, despite the department's knowledge of the potential risk for harm to H.H. as a result of the initial investigation, the department incorrectly assessed the danger to H.H. as "no present danger" under the care of her mother and stepfather, and

WHEREAS, on June 2, 2017, while the initial investigation remained open, the department received a second child abuse hotline report regarding H.H., alleging substance misuse by the mother and stepfather and neglect of H.H. by the mother, and

WHEREAS, between June 2 and June 28, 2017, the department failed to investigate the allegations of the second abuse report, failed to conduct a home visit at the family's residence to observe H.H., and failed to refer the family to appropriate

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88 services, and

89 WHEREAS, on June 28, 2017, the department visited a motel
90 to which the family had relocated, but failed to conduct any
91 additional investigation in connection with the second abuse
92 report, and

93 WHEREAS, on July 2, 2017, the department closed both
94 investigations with no findings without conducting a thorough
95 investigation or ensuring H.H.'s safety, and

96 WHEREAS, on September 4, 2017, only 2 months after closing
97 the first two cases alleging abuse of H.H., the department
98 received four additional child abuse hotline reports regarding
99 severe abuse and neglect of H.H., and

100 WHEREAS, on September 4, 2017, H.H. was admitted to the
101 hospital with life-threatening injuries, and

102 WHEREAS, upon admission to the hospital, H.H. was
103 unconscious and unresponsive; had a severe traumatic head
104 injury; had multiple areas of bleeding in her brain; had severe
105 brain swelling caused by repetitive abusive head trauma; had eye
106 injuries; was in respiratory failure requiring ventilator
107 support; was placed in a medically induced coma; underwent two
108 cranioplasties to remove parts of her skull to allow her brain
109 swelling to go down; received various other intensive medical
110 interventions and treatment; and was determined to be the victim
111 of severe, prolonged, repeated, life-threatening physical abuse
112 that caused permanent damage, and

113 WHEREAS, due to the significance of her injuries, H.H.
114 remained in the hospital for 109 days, and

115 WHEREAS, a law enforcement investigation determined that
116 H.H. had been physically abused, neglected, and tortured by her

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117 mother and stepfather, and

118 WHEREAS, the department only removed H.H. from her mother's
119 care and placed her in its custody after the law enforcement
120 investigation, and

121 WHEREAS, as a result of the law enforcement investigation,
122 H.H.'s mother was charged with and convicted of aggravated child
123 abuse and child neglect causing great bodily harm and was
124 sentenced to 40 years in prison, and H.H.'s stepfather was
125 charged with and convicted of possession of a firearm by a
126 convicted felon, aggravated child abuse, and child abuse and
127 child neglect causing great bodily harm and was sentenced to 25
128 years in prison, and

129 WHEREAS, as a consequence of the department's negligence
130 and failure to take protective action, H.H. suffered
131 catastrophic and permanent injuries, including, but not limited
132 to, permanent traumatic brain damage, cerebral palsy,
133 encephalomalacia, ventriculomegaly, profound developmental
134 delays, the inability to walk or talk, the inability to sit up
135 independently, dysphagia, the inability to eat without use of a
136 feeding tube, posttraumatic epilepsy and seizures that
137 necessitated surgery and the implantation of a vagus nerve
138 stimulation device in her chest, spasticity, neurostorming
139 dysfunction, obstructive sleep apnea, chronic constipation and
140 gastroesophageal reflux disease, and chronic lung disease and
141 restrictive lung disease, and

142 WHEREAS, H.H. has also been treated for acute respiratory
143 failure, anemia, transaminitis, hyperglycemia, fevers,
144 tachycardia, candida stomatitis, and acute tracheitis, and

145 WHEREAS, in November 2022, H.H. underwent corpus

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callosotomy surgery to treat seizures that were occurring multiple times daily, and she had another brain surgery in January 2025, and

WHEREAS, H.H. will require additional brain surgical procedures in the future and will be catheterized to assist with urination, and

WHEREAS, H.H.'s care is monitored by multiple physicians, including specialists in pediatrics, palliative care, neurology, neurosurgery, gastroenterology, pulmonology, orthopedics, and urology, and

WHEREAS, H.H. receives physical therapy, occupational therapy, and speech therapy, and

WHEREAS, H.H. requires and will continue to require constant care, monitoring, supervision, various therapies, multiple specialist services, and supportive care throughout the remainder of her life, and

WHEREAS, as the state agency charged under chapter 39, Florida Statutes, with operating the child welfare system in this state, including conducting child protective investigations to ensure child safety and to prevent further harm to children, the department failed in its duty to ensure H.H.'s safety and protect her from harm, and

WHEREAS, following a jury trial, a verdict was rendered on December 8, 2023, in the amount of \$15 million in favor of H.H., and

WHEREAS, the jury found that, but for the department's negligence in failing to complete a thorough child protective investigation to ensure H.H.'s safety and to protect H.H. from further abuse and neglect, which was its primary duty, H.H.

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would not have suffered catastrophic and permanent injuries, and

WHEREAS, \$200,000 of the jury award was recovered from the department, which has exhausted the sovereign immunity limits set forth in s. 768.28, Florida Statutes, and

WHEREAS, the trial court entered a cost judgment awarding taxable costs in the amount of \$126,639.56 to H.H., to be paid by the department, and

WHEREAS, a total of \$14,926,639.56, representing \$14.8 million in excess of the sovereign immunity limits and \$126,639.56 in costs awarded to H.H., plus interest, remains unpaid by the department, and

WHEREAS, H.H. is responsible for payment of attorney fees and all remaining costs and expenses relating to this claim, subject to the limitations set forth in this act, 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. The sum of \$14,926,639.56 is appropriated from the General Revenue Fund to the Department of Children and Families for the relief of H.H. for injuries and damages sustained as a result of the department's negligence.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of H.H., payable to an irrevocable trust created for the exclusive use and benefit of H.H., in the sum of \$14,926,639.56 upon funds of the Department of Children and Families in the State Treasury and to pay the same out of such

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204 funds in the State Treasury.

205 Section 4. It is the intent of the Legislature that all
206 government liens, including Medicaid liens, resulting from the
207 treatment and care of H.H. for the occurrences described in this
208 act be waived and paid by the state.

209 Section 5. The amount paid by the Department of Children
210 and Families pursuant to s. 768.28, Florida Statutes, and the
211 amount awarded under this act are intended to provide the sole
212 compensation for all present and future claims arising out of
213 the factual situation described in this act which resulted in
214 injuries and damages to H.H. The total amount paid for attorney
215 fees relating to this claim may not exceed 25 percent of the
216 total amount awarded under this act.

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