

By Senator Haridopolos

26-00034-09

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1 A bill to be entitled
2 An act for the relief of Pierreisna Archille;
3 providing an appropriation to compensate Pierreisna
4 Archille, a mentally disabled person, by and through
5 Darlene Archille, Limited Guardian of Property for
6 Pierreisna Archille, for injuries and damages
7 sustained as a result of the negligence of employees
8 of the Department of Children and Family Services;
9 providing for reversion of funds; providing a
10 limitation on the payment of attorney's fees, lobbying
11 fees, costs, and other similar expenses relating to
12 the claim; providing an effective date.

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14 WHEREAS, Pierreisna Archille, a 26-year-old moderately
15 retarded woman, has the cognitive ability of a child between
16 kindergarten and first-grade level, and

17 WHEREAS, because of allegations of neglect against her
18 biological mother and stepfather, Pierreisna Archille and her
19 sisters, Darlene and Muriel, were placed in foster care in 1993,
20 and

21 WHEREAS, in 1997, when Pierreisna Archille was 15 years
22 old, the Archille children were placed in the foster home of
23 Bonifacio and Josephine Velazquez, and

24 WHEREAS, the Velazquez foster home was licensed,
25 supervised, and monitored by the Department of Children and
26 Family Services and its employees and agents, and

27 WHEREAS, after placement of the Archille children in the
28 foster home, Darlene Archille complained that Bonifacio
29 Velazquez, the foster father, was sexually molesting her and was

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30 also molesting S.A., a toddler, and

31 WHEREAS, after these complaints were made, both Darlene and
32 Muriel were removed from the Velazquez home, but Pierreisna
33 Archille remained in the home, and

34 WHEREAS, between June of 1998 through June of 1999,
35 Bonifacio Velazquez repeatedly raped and molested Pierreisna
36 Archille, resulting in her impregnation and subsequent birth of
37 a daughter, and

38 WHEREAS, after the birth of Pierreisna Archille's daughter,
39 Takeisha, Pierreisna Archille's younger sister, Darlene, then 19
40 years old, undertook the responsibility of helping Pierreisna
41 Archille take care of her daughter, and

42 WHEREAS, as a developmentally disabled person, Pierreisna
43 Archille is in need of funds necessary for her to care for her
44 daughter with the assistance of her sister, Darlene, and

45 WHEREAS, Pierreisna Archille continues to suffer nightmares
46 and extreme emotional and psychological trauma as a result of
47 the actions giving rise to this claim, and

48 WHEREAS, a life-care continuum was formulated by
49 comprehensive rehabilitation consultants detailing the funds
50 necessary to provide treatment to Pierreisna Archille, as well
51 as to help provide for the support necessary for Pierreisna
52 Archille to take care of her daughter, and

53 WHEREAS, Dr. Fred Raffa, an economist, reduced such cost to
54 present value in the amount of \$4,067,431, and

55 WHEREAS, the dependency court appointed a Limited Guardian
56 of Property for Pierreisna Archille for the purpose of assisting
57 in obtaining compensation for her damages, and

58 WHEREAS, a lawsuit was filed on behalf of the Limited

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59 Guardian of Property for Pierreisna Archille in Naples, Florida,
60 against the Department of Children and Family Services, and

61 WHEREAS, Pierreisna Archille, by and through her previous
62 Limited Guardian of Property, Patrick Weber, and the Department
63 of Children and Family Services agreed to mediation to resolve
64 this matter and entered into a settlement agreement to
65 compensate Pierreisna Archille for her damages and to provide a
66 basis for this claim bill, and

67 WHEREAS, as a result of good-faith negotiations between the
68 parties at a court-sanctioned mediation, the Department of
69 Children and Family Services and the Limited Guardian of
70 Property agreed that \$1.3 million is reasonable and fair
71 compensation for Pierreisna Archille's damages, and

72 WHEREAS, the Department of Children and Family Services has
73 already paid \$100,000 in accordance with the provisions of s.
74 768.28, Florida Statutes, and

75 WHEREAS, with respect to the \$100,000 already paid by the
76 department, the appropriate parties agreed to deferred payment
77 of attorney's fees and costs of plaintiff's counsel so that
78 Pierreisna Archille could immediately have access to needed
79 funds, and

80 WHEREAS, the Department of Children and Family Services
81 supports a claim bill in the amount of \$1.2 million, NOW,
82 THEREFORE,

83

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

85

86 Section 1. The facts stated in the preamble to this act are
87 found and declared to be true.

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88 Section 2. (1) There is appropriated from the General
89 Revenue Fund to the Department of Children and Family Services
90 the sum of \$1.2 million for the relief of Pierreisna Archille,
91 by and through Darlene Archille, Limited Guardian of Property
92 for Pierreisna Archille, for injuries and damages sustained.
93 After payment of attorney's fees and costs, lobbying fees, and
94 other similar expenses relating to this claim as provided for in
95 this section, outstanding medical liens, and other immediate
96 needs, the remaining funds shall be placed in a special-needs
97 trust created for the exclusive use and benefit of Pierreisna
98 Archille. Any funds remaining in the special-needs trust upon
99 the death of Pierreisna Archille, after payment of any
100 outstanding Medicaid liens, shall revert to the General Revenue
101 Fund of the State of Florida.

102 (2) Any amount awarded under this act pursuant to the
103 waiver of sovereign immunity permitted under s. 768.28, Florida
104 Statutes, and this award is intended to provide the sole
105 compensation for all present and future claims arising out of
106 the factual situation described in the preamble to this act
107 which resulted in the injury to Pierreisna Archille. The total
108 amount paid for attorney's fees, lobbying fees, costs, and other
109 similar expenses relating to this claim may not exceed 25
110 percent of the amount awarded under subsection (1).

111 Section 3. The Chief Financial Officer is directed to draw
112 a warrant in the sum of \$1.2 million payable to Pierreisna
113 Archille, by and through Darlene Archille, Limited Guardian of
114 Property for Pierreisna Archille, upon funds in the State
115 Treasury to the credit of the Department of Children and Family
116 Services, and the Chief Financial Officer is directed to pay the

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117 same out of such funds in the State Treasury not otherwise
118 appropriated.

119 Section 4. This act shall take effect upon becoming a law.