

HB 209

2012

1 A bill to be entitled
2 An act for the relief of Angela Sozzani; directing the
3 Department of Children and Family Services to include
4 in its annual legislative budget requests an
5 appropriation to compensate Angela Sozzani, a disabled
6 person, by and through her next friend, for injuries
7 and damages sustained as a result of the negligence of
8 employees of the Department of Children and Family
9 Services; providing for the use of funds; specifying
10 funds to be included in the initial appropriation;
11 requiring the department to seek appropriations in
12 excess of the limit established in the act under
13 certain circumstances; providing that no payment of
14 attorney fees, lobbying fees, costs, or other similar
15 expenses relating to the claim shall be awarded;
16 providing an effective date.

17
18 WHEREAS, Angela Sozzani, whose date of birth is April 21,
19 2000, experienced a severe hypoxic-ischemic encephalopathy,
20 secondary to a near drowning, on April 17, 2002, and, as a
21 result, is forever dependent on receiving 24-hour medical and
22 supportive care, and

23 WHEREAS, Angela Sozzani was in the legal custody of the
24 Department of Children and Family Services and had been placed
25 in the medical foster home of Ronald and Joyce Bryson on
26 February 6, 2001, and

27 WHEREAS, Ronald Bryson and Joyce Bryson were each licensed
28 by the Department of Children and Family Services to provide

29 foster care pursuant to s. 409.175, Florida Statutes, and
 30 WHEREAS, on April 17, 2002, Ronald and Joyce Bryson were
 31 providing foster care to three medically needy foster children
 32 and after-school care to their two special-needs grandchildren,
 33 even though their foster home was licensed by the Department of
 34 Children and Family Services to provide care for only two
 35 children, and

36 WHEREAS, on April 17, 2002, Ronald and Joyce Bryson were
 37 hosting a party and allowed their two grandchildren to swim in
 38 their swimming pool without adult supervision, and

39 WHEREAS, on April 17, 2002, Angela Sozzani, who was nearly
 40 2 years of age and was not being supervised, wandered out the
 41 open patio door to the pool and fell into the swimming pool,
 42 nearly drowning, and

43 WHEREAS, a lawsuit was filed on behalf of Angela Sozzani in
 44 Pinellas County against the Department of Children and Family
 45 Services, Ronald and Joyce Bryson, Family Continuity Program,
 46 Inc., and Help a Child, Inc., and

47 WHEREAS, Angela Sozzani's claim against Ronald and Joyce
 48 Bryson is based on each person's failure to properly supervise
 49 Angela and their failure to follow rules of the Department of
 50 Children and Family Services, and

51 WHEREAS, Angela Sozzani's claim against Family Continuity
 52 Program, Inc., which was the lead agency in Pinellas County
 53 pursuant to s. 409.1671, Florida Statutes, during the period
 54 that Angela was placed in the Bryson home, is based on the
 55 entity's failure to comply with rules of the Department of
 56 Children and Family Services, failure to perform monthly home

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57 visits, failure to ensure Angela's safety in the Bryson foster
58 home, and failure to report the licensing violations that were
59 observed in the Bryson foster home, and

60 WHEREAS, Angela Sozzani's claim against Help a Child, Inc.,
61 which was the private entity that contracted with the Department
62 of Children and Family Services to oversee the operation of the
63 medical foster care program through which the Brysons were
64 licensed, is based on the entity's failure to properly oversee
65 and manage the Bryson foster home, failure to train Ronald and
66 Joyce Bryson, failure to comply with rules of the Department of
67 Children and Family Services, and failure to report the
68 licensing violations that were observed in the Bryson foster
69 home, and

70 WHEREAS, Angela Sozzani's claim against the Department of
71 Children and Family Services is based on the department's
72 failure to follow its own operating procedures and guidelines
73 with respect to the licensure of the Bryson foster home, which
74 the department knew or should have known would be a dangerous
75 environment to all children, including Angela Sozzani, and

76 WHEREAS, as a disabled person, Angela Sozzani is in need of
77 funds necessary for her care, and

78 WHEREAS, Angela Sozzani continues to need 24-hour medical
79 care and treatment as a result of the actions giving rise to
80 this claim, and

81 WHEREAS, Robert F. Cullen, Jr., M.D., F.A.A.P., Director
82 Emeritus of Child Neurology of Miami Children's Hospital, has
83 reported that, with optimum medical care, Angela Sozzani's life
84 expectancy will be approximately 20 to 30 years, and

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85 WHEREAS, Angela Sozzani and Family Continuity Program,
86 Inc., and Help a Child, Inc., have reached a settlement for the
87 limits of each entity's available insurance, and

88 WHEREAS, pursuant to s. 409.175(15), Florida Statutes, any
89 person who owns and operates a family foster home for the
90 Department of Children and Family Services, including Ronald and
91 Joyce Bryson, is provided coverage through the Division of Risk
92 Management of the Department of Financial Services, as provided
93 in ss. 284.38 and 284.385, Florida Statutes, and

94 WHEREAS, Angela Sozzani, by and through her next friend,
95 and Ronald and Joyce Bryson have reached a settlement and the
96 Department of Children and Family Services has tendered payment
97 on behalf of the Brysons in the amount of \$100,000 in accordance
98 with the provisions of s. 409.175(15), Florida Statutes, to
99 compensate Angela Sozzani for damages and to provide a basis for
100 this claim bill, and

101 WHEREAS, the Department of Children and Family Services has
102 tendered payment in the amount of \$100,000 in accordance with s.
103 768.28, Florida Statutes, to Angela Sozzani as to the claim
104 against the department, and

105 WHEREAS, a special needs trust has been established for the
106 exclusive use and benefit of Angela Sozzani and the net
107 settlement proceeds from each of the defendants have been
108 deposited into the special needs trust, and

109 WHEREAS, Angela Sozzani is currently eligible for and
110 receiving Medicaid, and currently all of her placement,
111 treatment, and care costs are being funded through the Medicaid
112 program, and

113 WHEREAS, if Medicaid does not provide any medically
 114 necessary and appropriate health care services as determined by
 115 Angela Sozzani's treatment team, then such services shall be
 116 paid for utilizing assets from Angela Sozzani's special needs
 117 trust, and

118 WHEREAS, the Department of Children and Family Services
 119 supports this act to ensure that Angela Sozzani has adequate
 120 funds and resources for her entire life to obtain all medically
 121 necessary and appropriate health care, and

122 WHEREAS, because it is unknown how long Angela Sozzani will
 123 actually live and whether all of her medically necessary and
 124 appropriate health care will be provided through the Medicaid
 125 program, the Department of Children and Family Services has
 126 agreed to seek a claims bill which will, as part of the
 127 department's annual legislative budget request, provide for the
 128 replenishment of any funds expended by Angela Sozzani's special
 129 needs trust for placement costs and medical care and treatment
 130 not funded by Medicaid, and

131 WHEREAS, Angela Sozzani's attorneys provided pro bono
 132 representation for Angela Sozzani in seeking introduction of
 133 this relief act at the 2010 and 2011 Regular Sessions of the
 134 Legislature and sought no payment of attorney fees, lobbying
 135 fees, costs, or other similar expenses relating to this claim,
 136 NOW, THEREFORE,

137

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

139

140 Section 1. The facts stated in the preamble to this act

141 are found and declared to be true.

142 Section 2. Beginning in fiscal year 2013-2014 and for each
143 subsequent fiscal year thereafter for the remainder of Angela
144 Sozzani's life, the Department of Children and Family Services
145 shall include in its annual legislative budget request an amount
146 not to exceed \$180,000 to replenish the special needs trust of
147 Angela Sozzani for any funds that have been expended from the
148 trust for Angela Sozzani's placement costs and medical care and
149 treatment that are not funded by Medicaid. As part of the
150 appropriation in the legislative budget request for the 2013-
151 2014 fiscal year, the department shall include all funds
152 expended by the special needs trust for placement costs and
153 medical care and treatment not funded by Medicaid from the date
154 of the trust's inception through the date on which the initial
155 request is made.

156 Section 3. In the event of extraordinary circumstances,
157 the Department of Children and Family Services in its sole
158 discretion shall, as part of its annual legislative budget
159 request, seek amounts in excess of the limit set forth in
160 section 2 to replenish Angela Sozzani's special needs trust for
161 funds expended for placement costs and medical care and
162 treatment not funded by Medicaid.

163 Section 4. No attorney fees, lobbying fees, costs, or
164 other similar expenses relating to this claim shall be awarded.

165 Section 5. This act shall take effect upon becoming a law.