

By Senator Soto

14-00020-13

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1                   A bill to be entitled  
2           An act for the relief of J.D.S.; providing an  
3           appropriation from the General Revenue Fund to  
4           compensate J.D.S. for injuries and damages sustained  
5           as a result of negligence by the Agency for Persons  
6           with Disabilities, as successor agency of the  
7           Department of Children and Family Services; providing  
8           a limitation on the payment of fees and costs;  
9           providing an effective date.

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11           WHEREAS, in December 2002, J.D.S. was living at the Strong  
12           Group Home that was owned and operated by Hester Strong and  
13           licensed and supervised by the Department of Children and Family  
14           Services. At that time, J.D.S. was a 22-year-old developmentally  
15           disabled woman who was afflicted with autism, cerebral palsy,  
16           and mental retardation, and

17           WHEREAS, in December 2002, J.D.S. was raped and impregnated  
18           by Philip Strong, husband of the owner and operator of the  
19           Strong Group Home, and

20           WHEREAS, on April 24, 2003, J.D.S.'s pregnancy was  
21           discovered by her physician, and on August 30, 2003, J.D.S. gave  
22           birth to a baby girl, known as G.V.S. The newborn infant was  
23           immediately taken from J.D.S. and placed for adoption, and

24           WHEREAS, as a result of the rape and impregnation, J.D.S.  
25           sustained mental anguish and a further diminution in the quality  
26           of her life, and

27           WHEREAS, J.D.S. filed a claim in Orange County Circuit  
28           Court alleging that the department negligently supervised the  
29           Strong Group Home and that the Strong Group Home was negligently

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30 operated, thereby allowing Philip Strong to engage in sexual  
31 intercourse with J.D.S., resulting in the rape and impregnation  
32 of J.D.S., and

33 WHEREAS, J.D.S.'s claims against the department, the Strong  
34 Group Home, and other parties included claims for negligence,  
35 violations of chapter 393, Florida Statutes, and violations of  
36 the Bill of Rights of Persons with Developmental Disabilities,  
37 s. 393.13, Florida Statutes. As a client, J.D.S. had a right  
38 under this section to "dignity, privacy, and humane care,  
39 including the right to be free from sexual abuse, neglect, and  
40 exploitation." J.D.S. was a client of the department pursuant to  
41 s. 393.063(5), Florida Statutes, and the plaintiff alleged that  
42 the department had a nondelegable duty to protect J.D.S. from  
43 foreseeable harm, including sexual abuse, and

44 WHEREAS, J.D.S. alleged that the department was liable for  
45 direct negligence relating to its oversight of the Strong Group  
46 Home and that it was vicariously liable for the negligence of  
47 the Strong Group Home under the doctrine of *respondeat superior*  
48 pursuant to s. 768.28(9)(a), Florida Statutes, and

49 WHEREAS, before the jury trial commenced on February 6,  
50 2012, the parties agreed to settle the case titled *Patti R.*  
51 *Jarrell, as plenary guardian of J.D.S., an incapacitated person,*  
52 *Plaintiff, vs. State of Florida, Agency for Persons With*  
53 *Disabilities, as successor agency of the Department of Children*  
54 *and Family Services, for the sum of \$1.15 million, and*

55 WHEREAS, the terms of the settlement agreement consented to  
56 by the parties provide that the Agency for Persons with  
57 Disabilities pay \$200,000 to J.D.S. and the remaining \$950,000  
58 be paid pursuant to a stipulated claim bill, and

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59 WHEREAS, the agency has agreed to request an appropriation  
60 from the Legislature in the amount of \$950,000 in its 2013-2014  
61 fiscal year budget, and

62 WHEREAS, the \$950,000 stipulated settlement is sought  
63 through the submission of a claim bill to the Legislature, NOW,  
64 THEREFORE,

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

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

70 Section 2. The sum of \$950,000 is appropriated from the  
71 General Revenue Fund to the Agency for Persons with Disabilities  
72 for the relief of J.D.S., as compensation for the injuries and  
73 damages she sustained.

74 Section 3. The Chief Financial Officer shall draw a warrant  
75 upon funds of the Agency for Persons with Disabilities in the  
76 sum of \$950,000 and shall pay such amount out of funds in the  
77 State Treasury to the AGED Pooled Special Needs Trust, which  
78 shall be managed and administered by AGED, Inc., a nonprofit  
79 trust company, on behalf of J.D.S.

80 Section 4. The amount paid by the Agency for Persons with  
81 Disabilities pursuant to s. 768.28, Florida Statutes, and the  
82 amount awarded under this act are intended to provide the sole  
83 compensation for all present and future claims arising out of  
84 the factual situation described in this act which resulted in  
85 the injuries and damages to J.D.S. The total amount paid for  
86 attorney fees, lobbying fees, costs, and other similar expenses  
87 relating to this claim may not exceed 25 percent of the amount

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88 awarded under this act.

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