

By Senator Soto

14-00008-14

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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.

10  
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

14-00008-14

20146\_\_

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, and

38 WHEREAS, as a client of the department, as defined in s.  
39 393.063(5), Florida Statutes, J.D.S. had a right under s.  
40 393.13, Florida Statutes, to "dignity, privacy, and humane care,  
41 including the right to be free from sexual abuse, neglect, and  
42 exploitation," and the plaintiff alleged that the department had  
43 a nondelegable duty to protect J.D.S. from foreseeable harm,  
44 including sexual abuse, and

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

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

56 WHEREAS, under the terms of the settlement agreement  
57 consented to by the parties, the Agency for Persons with  
58 Disabilities agreed to pay \$200,000 to J.D.S., with the

14-00008-14

20146\_\_

59 remaining \$950,000 be paid pursuant to a stipulated claim bill,  
60 and

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

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

67

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

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

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

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

82 Section 4. The amount paid by the Agency for Persons with  
83 Disabilities pursuant to s. 768.28, Florida Statutes, and the  
84 amount awarded under this act are intended to provide the sole  
85 compensation for all present and future claims arising out of  
86 the factual situation described in this act which resulted in  
87 the injuries and damages to J.D.S. The total amount paid for

14-00008-14

20146\_\_

88 attorney fees, lobbying fees, costs, and other similar expenses  
89 relating to this claim may not exceed 25 percent of the amount  
90 awarded under this act.

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