

By Senator Soto

14-00126-16

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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       that certain payments and the appropriation satisfy  
9       all present and future claims related to the negligent  
10      act; providing a limitation on the payment of fees and  
11      costs; providing an effective date.

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

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

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

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

29       WHEREAS, J.D.S. filed a claim in Orange County Circuit

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30 Court alleging that the department negligently supervised the  
31 Strong Group Home and that the Strong Group Home was negligently  
32 operated, thereby allowing Philip Strong to rape J.D.S., which  
33 resulted in her impregnation, and

34 WHEREAS, J.D.S.'s claims against the department, the Strong  
35 Group Home, and other parties were based upon negligence,  
36 violations of chapter 393, Florida Statutes, and violations of  
37 the Bill of Rights of Persons with Developmental Disabilities,  
38 as set forth in s. 393.13, Florida Statutes, and

39 WHEREAS, as a client of the department, as defined in s.  
40 393.063, Florida Statutes, J.D.S. had a right under s. 393.13,  
41 Florida Statutes, to "dignity, privacy, and humane care,  
42 including the right to be free from sexual abuse, neglect, and  
43 exploitation," and

44 WHEREAS, J.D.S. alleged that the department had a  
45 nondelegable duty to protect J.D.S. from foreseeable harm,  
46 including sexual abuse, and

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

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

58 WHEREAS, under the terms of the settlement agreement

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59 consented to by the parties, the Agency for Persons with  
60 Disabilities agreed to pay \$200,000 to J.D.S., with the  
61 remaining \$950,000 to be paid pursuant to a stipulated claim  
62 bill, and

63 WHEREAS, the agency has agreed to request an appropriation  
64 from the Legislature in the amount of \$950,000, and

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

68

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

70

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

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

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

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

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88 the injuries and damages to J.D.S. The total amount paid for  
89 attorney fees, lobbying fees, costs, and other similar expenses  
90 relating to this claim may not exceed 25 percent of the amount  
91 awarded under this act.

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