

By Senator Simmons

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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 the negligence of the Agency for
6 Persons 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
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

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

44 WHEREAS, J.D.S. alleged that the department had a
45 nondelegable duty to protect her 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 was scheduled to commence on
53 February 6, 2012, the parties agreed to settle the case titled
54 *Patti R. Jarrell, as plenary guardian of J.D.S., an*
55 *incapacitated person, Plaintiff, v. State of Florida, Agency for*
56 *Persons With Disabilities, as successor agency of the Department*
57 *of Children and Family Services, for the sum of \$1.15 million,*
58 and

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

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62 remaining \$950,000 to be paid pursuant to a stipulated claim
63 bill, and

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

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

69

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

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

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

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

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

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91 relating to this claim may not exceed 25 percent of the amount
92 awarded under this act.

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