

HB 6511

2017

1                                   A bill to be entitled  
2           An act for the relief of L.T.; providing an  
3           appropriation to compensate L.T. for injuries and  
4           damages sustained as a result of the negligence of  
5           employees of the Department of Children and Families,  
6           formerly known as the Department of Children and  
7           Family Services; providing legislative intent  
8           regarding certain Medicaid liens; providing a  
9           limitation on the payment of fees and costs; providing  
10          an effective date.

11  
12          WHEREAS, on August 15, 1995, the Department of Children and  
13          Families removed 14-month-old L.T. and her infant brother from  
14          their mother's custody because they were not receiving adequate  
15          care, and

16          WHEREAS, the Department of Children and Families  
17          temporarily placed the children into the home of the children's  
18          great aunt and uncle, Vicki and Eddie Thomas, and

19          WHEREAS, a background check that was conducted shortly  
20          after L.T. and her brother were placed in the Thomases' home  
21          indicated that Mr. Thomas had once been convicted of a  
22          misdemeanor and possession of narcotics equipment, and

23          WHEREAS, the background check also revealed that Ms. Thomas  
24          had been charged with, but apparently not convicted of, larceny,  
25          and

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26 WHEREAS, the background check did not reveal any prior  
27 history of violence, sex offenses, or child abuse, and

28 WHEREAS, after conducting a home study, interviews, and an  
29 investigation, the Department of Children and Families concluded  
30 that the Thomases were capable of providing a safe home for L.T.  
31 and her brother and approved the placement, and

32 WHEREAS, on August 21, 1996, approximately 1 year after  
33 L.T. and her brother had been placed in the Thomases' home, Mr.  
34 Thomas was charged with committing a lewd and lascivious act on  
35 a child under the age of 16, and

36 WHEREAS, the alleged victim was the 13-year-old daughter of  
37 a woman with whom Mr. Thomas was having an extramarital affair,  
38 and the state later amended the charge to add a count for sexual  
39 battery on a child by a familial or custodial authority, and

40 WHEREAS, after two hung jury trials in January and March of  
41 1997, Mr. Thomas pled no contest in April 1997 to committing a  
42 lewd, lascivious, and indecent act on a child under the age of  
43 16, and

44 WHEREAS, Mr. Thomas was sentenced to 5 years' probation and  
45 required to attend sex offender classes and register as a sex  
46 offender, and

47 WHEREAS, on May 9, 1997, 1 month after Mr. Thomas entered  
48 his plea and was convicted of a child sex crime, the Department  
49 of Children and Families recommended, and the judge approved, an  
50 order allowing Mr. Thomas to return home and have unsupervised

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51 | contact with the children, and

52 |       WHEREAS, although the policies of the Department of  
53 | Children and Families barred Mr. Thomas from being able to adopt  
54 | a child because of his conviction for a sex act with a child and  
55 | his sex offender status, the policies did not prohibit the  
56 | continued placement of L.T. and her brother in the Thomases'  
57 | home, and so the children remained with the Thomases, and

58 |       WHEREAS, the Department of Children and Families  
59 | subsequently recommended to the court the permanent, long-term  
60 | placement of L.T. and her brother in the Thomases' home and  
61 | further recommended that the children be removed from protective  
62 | services, with no further supervision by the department, and

63 |       WHEREAS, on March 3, 2000, following the recommendation of  
64 | the Department of Children and Families, the court approved L.T.  
65 | and her brother's long-term placement with the Thomases and  
66 | removed the children from continued protective services, and

67 |       WHEREAS, on March 24, 2003, an abuse hotline call to the  
68 | Department of Children and Families reported that L.T. was being  
69 | abused by Mr. Thomas and that both Mr. and Ms. Thomas were using  
70 | drugs in the children's presence, and

71 |       WHEREAS, the next day, a child protective investigator for  
72 | the Department of Children and Families interviewed L.T. and her  
73 | brother while in the presence of Ms. Thomas, and neither child  
74 | was asked to be interviewed outside Ms. Thomas's presence, and

75 |       WHEREAS, L.T. and her brother denied the abuse allegations

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76 while Ms. Thomas watched and listened to them, and

77 WHEREAS, results from new background checks and drug  
78 screens were negative, and the Department of Children and  
79 Families concluded that L.T. and her brother were not at risk of  
80 abuse and closed the case, and

81 WHEREAS, on February 24, 2005, L.T. ran away from the  
82 Thomases' home and was found by law enforcement officers, and

83 WHEREAS, L.T. ran away from home because she had been  
84 repeatedly sexually and physically abused by Mr. Thomas and  
85 physically, verbally, and emotionally abused for years by Ms.  
86 Thomas, and

87 WHEREAS, L.T. and her brother were finally removed from the  
88 Thomases' home in 2005, and

89 WHEREAS, during her adolescent and teenaged years, L.T. was  
90 the subject of repeated Baker Act proceedings and suicide  
91 attempts and was in and out of inpatient and outpatient  
92 psychiatric facilities, and

93 WHEREAS, L.T. has been seen and treated by physicians and  
94 mental health care professionals who have diagnosed her with  
95 depression, posttraumatic stress disorder, anxiety disorder, and  
96 other disorders attributed to her trauma, and

97 WHEREAS, although L.T. struggles with the symptoms of  
98 depression, posttraumatic stress disorder, and anxiety disorder,  
99 she is now 22 years of age, is married to a Naval Petty Officer  
100 who is stationed at Naval Air Station Jacksonville, is the

101 mother of 2 very young daughters, and attends Florida State  
 102 College at Jacksonville as she works toward her goal of becoming  
 103 a mental health care professional specializing in treating  
 104 children who have been abused, neglected, or traumatized, and

105 WHEREAS, a lawsuit was brought on L.T.'s behalf in state  
 106 and federal courts alleging negligence pursuant to s. 768.28,  
 107 Florida Statutes, and civil rights violations pursuant to 42  
 108 U.S.C. s. 1983, and

109 WHEREAS, the civil rights claims were disposed of by the  
 110 trial court, but the negligence claims continued to be  
 111 litigated, and a jury trial of the case was set in Leon County,  
 112 and

113 WHEREAS, the parties attended a court-ordered mediation and  
 114 on June 21, 2010, agreed to a mediated settlement under which  
 115 L.T. will receive \$1 million, of which \$200,000 has been paid,  
 116 and the claim for the remaining \$800,000 is being submitted  
 117 through this bill, which the Department of Children and Families  
 118 agrees to support, NOW, THEREFORE,

119

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

121

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

124 Section 2. There is appropriated from the General Revenue  
 125 Fund to the Department of Children and Families the sum of

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126 \$800,000 for the relief of L.T. for the injuries and damages she  
127 sustained. After payment of attorney fees and costs, lobbying  
128 fees, and other similar expenses relating to this claim;  
129 outstanding medical liens other than Medicaid liens; and other  
130 immediate needs, the remaining funds shall be placed into a  
131 trust created for the exclusive use and benefit of L.T. The  
132 trust shall be administered by an institutional trustee of  
133 L.T.'s choosing and shall terminate upon L.T.'s 25th birthday,  
134 at which time the remaining principal and interest shall revert  
135 to L.T. or, if she predeceases the termination of the trust, to  
136 her heirs, beneficiaries, or estate.

137 Section 3. The Chief Financial Officer is directed to draw  
138 a warrant in favor of L.T. in the sum of \$800,000 upon funds in  
139 the State Treasury to the credit of the Department of Children  
140 and Families, and the Chief Financial Officer is directed to pay  
141 the same out of such funds in the State Treasury not otherwise  
142 appropriated.

143 Section 4. It is the intent of the Legislature that any  
144 and all Medicaid liens arising from the treatment and care of  
145 the injuries and damages to L.T. described in this act shall be  
146 waived or paid by the state.

147 Section 5. The amount awarded pursuant to the waiver of  
148 sovereign immunity under s. 768.28, Florida Statutes, and the  
149 amount awarded under this act are intended to provide the sole  
150 compensation for all present and future claims arising out of

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151 the factual situation described in the preamble to this act  
152 which resulted in the injuries and damages to L.T. The total  
153 amount paid for attorney fees, lobbying fees, costs, and similar  
154 expenses relating to this claim may not exceed 25 percent of the  
155 total amount awarded under this act.

156 Section 6. This act shall take effect upon becoming a law.