

By Senator Calatayud

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1 A bill to be entitled
2 An act for the relief of L.E. by the Department of
3 Children and Families; providing an appropriation to
4 compensate L.E. for injuries and damages sustained as
5 a result of the negligence of the department;
6 providing a limitation on compensation and the payment
7 of attorney fees; providing an effective date.

8
9 WHEREAS, L.E. was born on July 29, 2019, and, at birth,
10 tested positive for amphetamines, and

11 WHEREAS, L.E.'s biological mother tested positive for
12 amphetamines after the delivery of L.E., and

13 WHEREAS, while at the hospital, L.E.'s biological mother
14 and father engaged in a violent altercation with each other, and

15 WHEREAS, shortly after L.E.'s birth, the Department of
16 Children and Families received two child abuse hotline reports,
17 one alleging intrafamily violence threatening L.E. and the other
18 alleging drug exposure of newborn L.E., and

19 WHEREAS, the department is charged under s. 39.001, Florida
20 Statutes, with conducting child protective investigations to
21 ensure child safety and prevent further harm to children and
22 owed L.E. a duty to ensure her safety and prevent further harm,
23 and

24 WHEREAS, the department sent a child protective
25 investigator to the hospital to initiate an investigation into
26 the reported abuse, and

27 WHEREAS, the department discovered that L.E.'s mother had a
28 history of substance misuse, untreated mental health issues, and
29 a criminal history involving violence, and

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30 WHEREAS, the department discovered that both L.E.'s mother
31 and father had an extensive history of involvement with the
32 department, including, collectively, at least 20 prior child
33 abuse hotline reports, and

34 WHEREAS, one of those prior reports involved egregious
35 abuse of L.E.'s biological father's other daughter when she was
36 not yet 6 months old, resulting in long-bone fractures, and

37 WHEREAS, the department removed that daughter from the
38 father's care, and

39 WHEREAS, L.E.'s mother's other two biological children had
40 previously been removed from her care due to verified child
41 abuse, and

42 WHEREAS, as L.E.'s mother placed her third child for
43 adoption, she was also planning to place L.E. for adoption and
44 made such arrangements prior to L.E.'s birth, and

45 WHEREAS, shortly after L.E. was born, L.E.'s mother
46 abandoned L.E. at the hospital and, against medical advice, left
47 the hospital with L.E.'s father, and

48 WHEREAS, an adoption specialist arrived at the hospital to
49 visit L.E., and

50 WHEREAS, while L.E. was still in the hospital following her
51 birth, the department determined that L.E. was in "present
52 danger" if left in the care of her parents and that immediate
53 action was necessary to protect L.E. from further abuse or
54 neglect, and

55 WHEREAS, the department contracted with a child welfare
56 agency and, instead of removing L.E. from her parents' care
57 through a judicial process, the department and its subcontractor
58 developed an out-of-home safety plan to place L.E. with a friend

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59 of L.E.'s mother, and

60 WHEREAS, within 3 weeks after that placement, the friend
61 realized that she could no longer care for L.E. and informed the
62 department of this, and

63 WHEREAS, despite a reassessment that established that there
64 was still a "present danger" to L.E. if left in the care of her
65 parents, the department relied upon information from its
66 subcontracted agency, and the joint decision was made to place
67 L.E. into her parents' care, and

68 WHEREAS, on August 21, 2019, L.E. was placed into her
69 parents' home, and

70 WHEREAS, on or about, September 17, 2019, less than 4 weeks
71 later, the department determined that it would be closing its
72 investigation, despite acknowledging that L.E.'s home situation
73 was volatile and unstable and that L.E.'s mother remained
74 violent and impulsive, and

75 WHEREAS, the subcontractor planned to decrease its
76 monitoring of L.E. and the home upon the department closing its
77 investigation, and

78 WHEREAS, on September 18, 2019, the subcontractor
79 transitioned its services from safety management to nonjudicial
80 in-home services, which inherently decreased monitoring of L.E.
81 by child welfare professionals, and

82 WHEREAS, on September 24, 2019, the department closed its
83 investigation, despite the fact that there was no evidence of
84 change or progress with L.E.'s parents, and

85 WHEREAS, despite the subcontractor's claims that it had
86 provided services to the parents, the department expressly
87 acknowledged in its own investigative summary that, at the time

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88 of closing its case, “[t]he home environment continues to be
89 volatile and unstable on a normal basis. The fighting in the
90 home will stabilize for a period of time but will always return
91 to a chaotic and aggressive environment... [violent and
92 impulsive behaviors] are clearly evident and severe... there has
93 been no clear changes made to their behaviors and the patterns
94 continue... [and] all of the children [including L.E.] are
95 vulnerable,” and

96 WHEREAS, the very next day, on September 25, 2019, L.E. was
97 brought to Rockledge Regional Hospital in distress and
98 experiencing seizures, and

99 WHEREAS, medical staff at Rockledge Regional Hospital found
100 makeup covering obvious bruising across her forehead, and

101 WHEREAS, doctors determined that L.E. had suffered
102 catastrophic injuries from child abuse which had occurred over a
103 period of time, including a parietal calvarial skull fracture; a
104 left frontal parietal subdural hematoma with bilateral frontal,
105 temporal, and parietal cortical edema and encephalomalacia;
106 healing fractures of the left sixth and seventh ribs; a healing
107 fracture of the right eighth rib; acute fractures to the right
108 tenth and eleventh ribs; a pelvic fracture-left acetabular
109 cortical avulsion fracture; cortical buckling of the right
110 proximal tibial medial metaphysis; and multiple ecchymotic
111 lesions to the forehead, and

112 WHEREAS, L.E. was immediately transferred to Nemours
113 Children’s Hospital in Orlando and admitted in critical
114 condition, due to severe organ system injury and dysfunction,
115 and was diagnosed as being at risk for hypoxia, hypercarbia,
116 hypotension, sepsis, shock, cardiorespiratory arrest,

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117 intracranial hypertension, cerebral edema, stroke, and death,
118 and

119 WHEREAS, L.E. was diagnosed with shaken baby syndrome
120 causing traumatic brain injury, seizures, and cerebral palsy, as
121 well as malnourishment, and

122 WHEREAS, between August 21, 2019, and September 25, 2019,
123 L.E. was subjected to repeated and severe child abuse and
124 neglect while in the care of her parents, and

125 WHEREAS, L.E.'s parents were arrested, charged, and
126 convicted of aggravated child abuse based upon their abuse of
127 L.E. while she was in their home between August 21, 2019, and
128 September 25, 2019, and

129 WHEREAS, L.E. was subsequently adopted by her maternal
130 grandmother and relocated to Chicago, where she is followed by a
131 medical team at Lurie Children's Hospital, and

132 WHEREAS, L.E. has received, and will continue to receive,
133 therapeutic services across a host of disciplines, including
134 occupational, physical, speech, nutritional, vision, and
135 cognitive therapy, and

136 WHEREAS, L.E., who just turned 5 years old, is currently
137 under an individual educational plan at school for her
138 disability, which has been formally classified as traumatic
139 brain injury, and

140 WHEREAS, L.E. requires and will continue to require
141 constant care, monitoring, supervision, various therapies,
142 multiple specialist services, and supportive care throughout the
143 remainder of her life, which may include admission to a skilled
144 residential home if her adoptive parent is no longer able to
145 care for her, and

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146 WHEREAS, the department, charged with operating Florida's
147 child welfare system, failed in its duties to ensure L.E.'s
148 safety and protect her from harm, and

149 WHEREAS, the department's negligence, in combination with
150 the failures of its subcontracted agency, caused catastrophic
151 brain injury that will have a significant impact on L.E. for the
152 remainder of her life, and

153 WHEREAS, the department agreed to resolve L.E.'s claims
154 against the department through a negotiated settlement in the
155 Circuit Court for the 18th Judicial Circuit in and for Brevard
156 County, under case number 05-2022-CA-033685, in the total amount
157 of \$4 million, and

158 WHEREAS, the settlement agreement required that the
159 department make an initial payment of \$200,000, which is the
160 maximum amount allowed under the sovereign immunity limitations
161 imposed under s. 768.28, Florida Statutes; and that the
162 remaining \$3.8 million be paid contingent upon the passage and
163 funding of this claim bill, which the department has expressly
164 agreed it does not, and will not oppose, and

165 WHEREAS, on July 9, 2024, the settlement agreement was
166 approved by the circuit court, and, with the department's
167 agreement and consent, a final judgment was entered against the
168 department in the amount of \$4 million pursuant to the
169 negotiated settlement, and

170 WHEREAS, L.E.'s civil claims against the subcontracted
171 child welfare agency remain pending, NOW, THEREFORE,

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

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

177 Section 2. The sum of \$3.8 million is appropriated from the
178 General Revenue Fund to the Department of Children and Families
179 for the relief of L.E. for injuries and damages sustained as a
180 result of the negligence of the department.

181 Section 3. The Chief Financial Officer is directed to draw
182 a warrant in favor of L.E., payable to the irrevocable trust
183 which has already been created for the exclusive use and benefit
184 of L.E., in the sum of \$3.8 million upon funds of the Department
185 of Children and Families in the State Treasury and to pay the
186 same out of such funds in the State Treasury.

187 Section 4. The amount paid by the Department of Children
188 and Families pursuant to s. 768.28, Florida Statutes, and the
189 amount awarded under this act are intended to provide the only
190 compensation for all present and future claims against the
191 department arising out of the factual situation described in
192 this act which resulted in injuries and damages to L.E. The
193 total amount paid for attorney fees relating to this claim
194 against the department may not exceed 25 percent of the total
195 amount awarded under this act.

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