

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 requiring that specified liens be waived and paid by
7 the state; providing a limitation on compensation and
8 the payment of attorney fees; providing an effective
9 date.

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

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

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

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

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

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

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

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

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

39 WHEREAS, the department removed that daughter from the
40 father's care, and

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

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

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

50 WHEREAS, an adoption specialist arrived at the hospital to

51 visit L.E., and

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

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

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

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

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

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

76 | violent and impulsive, and

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

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

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

87 | WHEREAS, despite the subcontractor's claims that it had
88 | provided services to the parents, the department expressly
89 | acknowledged in its own investigative summary that, at the time
90 | of closing its case, "[t]he home environment continues to be
91 | volatile and unstable on a normal basis. The fighting in the
92 | home will stabilize for a period of time but will always return
93 | to a chaotic and aggressive environment... [violent and
94 | impulsive behaviors] are clearly evident and severe... there has
95 | been no clear changes made to their behaviors and the patterns
96 | continue... [and] all of the children [including L.E.] are
97 | vulnerable," and

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

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

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

114 WHEREAS, L.E. was immediately transferred to Nemours
115 Children's Hospital in Orlando and admitted in critical
116 condition, due to severe organ system injury and dysfunction,
117 and was diagnosed as being at risk for hypoxia, hypercarbia,
118 hypotension, sepsis, shock, cardiorespiratory arrest,
119 intracranial hypertension, cerebral edema, stroke, and death,
120 and

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

124 WHEREAS, between August 21, 2019, and September 25, 2019,
125 L.E. was subjected to repeated and severe child abuse and

126 neglect while in the care of her parents, and

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

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

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

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

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

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

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

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

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

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

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

174
 175 Be It Enacted by the Legislature of the State of Florida:

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

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

183 **Section 3.** It is the intent of the Legislature that all
184 government liens, including Medicaid liens, resulting from the
185 treatment and care of L.E. for the occurrences described in this
186 act be waived and paid by the state.

187 **Section 4.** The Chief Financial Officer is directed to draw
188 a warrant in favor of L.E., payable to the irrevocable trust
189 which has already been created for the exclusive use and benefit
190 of L.E., in the sum of \$3.8 million upon funds of the Department
191 of Children and Families in the State Treasury and to pay the
192 same out of such funds in the State Treasury.

193 **Section 5.** The amount paid by the Department of Children
194 and Families pursuant to s. 768.28, Florida Statutes, and the
195 amount awarded under this act are intended to provide the only
196 compensation for all present and future claims against the
197 department arising out of the factual situation described in
198 this act which resulted in injuries and damages to L.E. The
199 total amount paid for attorney fees relating to this claim
200 against the department may not exceed 25 percent of the total

201 | amount awarded under this act.

202 | **Section 6.** This act shall take effect upon becoming a law.