

By Senator Gruters

22-00027-26

202620__

A bill to be entitled
An act for the relief of H.H. by the Department of
Children and Families; providing an appropriation to
compensate H.H. for injuries and damages sustained as
a result of the negligence of the department;
providing legislative intent; providing a limitation
on compensation and the payment of certain fees and
costs; providing an effective date.

WHEREAS, on May 3, 2017, H.H. was a healthy, normally
developing 18 month old, when the Department of Children and
Families received its first child abuse hotline report regarding
H.H., which alleged substance abuse by H.H.'s mother and
stepfather and that H.H.'s mother and stepfather were selling
drugs out of, and harboring a fugitive in, their home, and

WHEREAS, during the course of its investigation of the
initial child abuse hotline report, the department discovered
that the stepfather had been released from the Department of
Corrections 7 months before initiation of the Department of
Children and Families' investigation after being incarcerated
for 3 1/2 years, was on probation, had been married to the
mother for only 1 month and had been dating the mother for only
3 months before initiation of the department's investigation,
and had a significant and dangerous criminal history that showed
a pattern of impulsivity and violence, and

WHEREAS, at the time of the initial child abuse hotline
report, the stepfather had been involved in at least 35
incidents resulting in police reports, and his criminal history,
ranging from 2003 through 2013, included a 2003 charge for

22-00027-26

202620__

30 driving under the influence, marijuana possession, and drug
31 equipment possession; a 2003 charge for driving under the
32 influence and possession of liquor by a person under the age of
33 21; a 2003 charge for driving while his license was suspended or
34 revoked, including a prior suspension for refusal to submit to a
35 lawful test of breath; a 2003 charge for burglary; 2004 felony
36 convictions for possession of cocaine, possession of drug
37 paraphernalia, and burglary of a dwelling, for which he served
38 concurrent sentences of 270 days and 55 days in jail; a 2004
39 arrest for resisting an officer without violence during a
40 disturbance; a 2005 charging affidavit for violation of a court
41 order and making threats toward his girlfriend's parents; a 2007
42 battery charge; a 2007 felony conviction for fleeing and
43 eluding; a 2009 arrest for violation of probation relating to
44 drug charges; a 2009 charge for marijuana possession, violation
45 of driver license restrictions, and drug equipment possession; a
46 2010 arrest for possession of a controlled substance and
47 possession of a firearm by a convicted felon; a 2010 arrest for
48 involvement in a marijuana growing operation and the cultivation
49 and manufacturing of cannabis; 2011 felony convictions for
50 possession of a Schedule II controlled substance, possession of
51 a firearm by a convicted felon, manufacture of cannabis,
52 possession of cocaine, fleeing and eluding, burglary of a
53 dwelling, possession of drug paraphernalia, driving while his
54 license was suspended, battery of a law enforcement officer, and
55 escape, for which he was sentenced to two 366-day sentences in
56 prison; and 2013 felony convictions for resisting arrest with
57 violence, fleeing or attempting to elude, driving while his
58 license was suspended or revoked, battery on a law enforcement

22-00027-26

202620__

officer, and escape, for which he was sentenced to 4 years in prison, and

WHEREAS, during the course of the department's investigation of the initial child abuse hotline report, H.H.'s stepfather refused to submit to a drug test, and

WHEREAS, during the course of the department's investigation of the initial abuse report, H.H.'s mother admitted to smoking marijuana and tested positive for marijuana, and

WHEREAS, despite the department's discoveries regarding risk of harm to H.H. during the investigation, the department failed to thoroughly investigate the child abuse hotline report by failing to speak with any persons who may have had information regarding H.H.'s safety, such as family members or the stepfather's probation officer, and failing to request relevant records and to refer the family to appropriate services, and

WHEREAS, despite the department's knowledge of the potential risk for harm to H.H. as a result of the initial investigation, the department incorrectly assessed the danger to H.H. as "no present danger" under the care of her mother and stepfather, and

WHEREAS, on June 2, 2017, while the initial investigation remained open, the department received a second child abuse hotline report regarding H.H., alleging substance misuse by the mother and stepfather and neglect of H.H. by the mother, and

WHEREAS, between June 2 and June 28, 2017, the department failed to investigate the allegations of the second abuse report, failing to conduct a home visit at the family's

22-00027-26

202620__

88 residence to observe H.H. and failing to refer the family to
89 appropriate services, and

90 WHEREAS, on June 28, 2017, the department visited a motel
91 to which the family had relocated, but failed to conduct any
92 additional investigation in connection with the second abuse
93 report, and

94 WHEREAS, on July 2, 2017, the department closed both
95 investigations with no findings without conducting a thorough
96 investigation or ensuring H.H.'s safety, and

97 WHEREAS, on September 4, 2017, only 2 months after closing
98 the first two cases alleging abuse of H.H., the department
99 received four additional child abuse hotline reports regarding
100 severe abuse and neglect of H.H., and

101 WHEREAS, on September 4, 2017, H.H. was admitted to the
102 hospital with life-threatening injuries, and

103 WHEREAS, upon admission to the hospital, H.H. was
104 unconscious and unresponsive; had a severe traumatic head
105 injury; had multiple areas of bleeding in her brain; had severe
106 brain swelling caused by repetitive abusive head trauma; had eye
107 injuries; was in respiratory failure requiring ventilator
108 support; was placed in a medically induced coma; underwent two
109 cranioplasties to remove parts of her skull to allow her brain
110 swelling to go down; received various other intensive medical
111 interventions and treatment; and was determined to be the victim
112 of severe, prolonged, repeated, life-threatening physical abuse
113 that caused permanent damage, and

114 WHEREAS, due to the significance of her injuries, H.H.
115 remained in the hospital for 109 days, and

116 WHEREAS, a law enforcement investigation determined that

22-00027-26

202620__

117 H.H. had been physically abused, neglected, and tortured by her
118 mother and stepfather, and

119 WHEREAS, the department only removed H.H. from her mother's
120 care and placed her in its custody after the law enforcement
121 investigation, and

122 WHEREAS, as a result of the law enforcement investigation,
123 H.H.'s mother was charged with and convicted of aggravated child
124 abuse and child neglect causing great bodily harm and was
125 sentenced to 40 years in prison, and H.H.'s stepfather was
126 charged with and convicted of possession of a firearm by a
127 convicted felon, aggravated child abuse, and child abuse and
128 child neglect causing great bodily harm and was sentenced to 25
129 years in prison, and

130 WHEREAS, as a consequence of the department's negligence
131 and failure to take protective action, H.H. suffered
132 catastrophic and permanent injuries, including, but not limited
133 to, permanent traumatic brain damage, cerebral palsy,
134 encephalomalacia, ventriculomegaly, profound developmental
135 delays, inability to walk or talk, inability to sit up
136 independently, dysphagia, inability to eat without use of a
137 feeding tube, posttraumatic epilepsy and seizures that
138 necessitated surgery and the implantation of a vagus nerve
139 stimulation device in her chest, spasticity,
140 neurostorming/autonomic dysfunction, obstructive sleep apnea,
141 chronic constipation and gastroesophageal reflux disease, and
142 chronic lung disease/restrictive lung disease, and

143 WHEREAS, H.H. has also been treated for acute respiratory
144 failure, anemia, transaminitis, hyperglycemia, fevers,
145 tachycardia, candida stomatitis, and acute tracheitis, and

22-00027-26

202620__

WHEREAS, in November 2022, H.H. underwent corpus callosotomy surgery to treat seizures that were occurring multiple times daily, and she had another brain surgery in January 2025, and

WHEREAS, H.H. will require additional brain surgical procedures in the future and will be catheterized to assist with urination, and

WHEREAS, H.H.'s care is monitored by multiple physicians, including specialists in pediatrics, palliative care, neurology, neurosurgery, gastroenterology, pulmonology, orthopedics, and urology, and

WHEREAS, H.H. receives physical therapy, occupational therapy, and speech therapy, and

WHEREAS, H.H. requires and will continue to require constant care, monitoring, supervision, various therapies, multiple specialist services, and supportive care throughout the remainder of her life, and

WHEREAS, as the state agency charged under chapter 39, Florida Statutes, with operating the child welfare system in this state, including conducting child protective investigations to ensure child safety and to prevent further harm to children, the department failed in its duty to ensure H.H.'s safety and protect her from harm, and

WHEREAS, following a jury trial, a verdict was rendered on December 8, 2023, in the amount of \$15 million in favor of H.H., and

WHEREAS, the jury found that, but for the department's negligence in failing to complete a thorough child protective investigation to ensure H.H.'s safety and to protect H.H. from

22-00027-26

202620__

further abuse and neglect, which was its primary duty, H.H. would not have suffered catastrophic and permanent injuries, and

WHEREAS, \$200,000 of the jury award was recovered from the department, which has exhausted the sovereign immunity limits set forth in s. 768.28, Florida Statutes, and

WHEREAS, the trial court entered a cost judgment awarding taxable costs in the amount of \$126,639.56 to H.H., to be paid by the department, and

WHEREAS, a total of \$14,926,639.56, representing \$14.8 million in excess of the sovereign immunity limits and \$126,639.56 in costs awarded to H.H., plus interest, remains unpaid by the department, and

WHEREAS, H.H. is responsible for payment of attorney fees and all remaining costs and expenses relating to this claim, subject to the limitations set forth in this act, NOW, THEREFORE,

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

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

Section 2. The sum of \$14,926,639.56 is appropriated from the General Revenue Fund to the Department of Children and Families for the relief of H.H. for injuries and damages sustained as a result of the department's negligence.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of H.H., payable to an irrevocable trust created for the exclusive use and benefit of H.H., in the sum of \$14,926,639.56 upon funds of the Department of Children and

22-00027-26

202620__

204 Families in the State Treasury and to pay the same out of such
205 funds in the State Treasury.

206 Section 4. It is the intent of the Legislature that all
207 government liens, including Medicaid liens, resulting from the
208 treatment and care of H.H. for the occurrences described in this
209 act be waived and paid by the state.

210 Section 5. The amount paid by the Department of Children
211 and Families pursuant to s. 768.28, Florida Statutes, and the
212 amount awarded under this act are intended to provide the sole
213 compensation for all present and future claims arising out of
214 the factual situation described in this act which resulted in
215 injuries and damages to H.H. The total amount paid for attorney
216 fees relating to this claim may not exceed 25 percent of the
217 total amount awarded under this act.

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