

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

24 WHEREAS, the department sent a child protective
25 investigator to the hospital to initiate an investigation of the

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26 | reported abuse, and

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

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 before 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
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

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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 having no evidence of change or progress
84 | 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
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
93 | [have] been no clear changes made to their behaviors and the
94 | patterns continue... [and] all of the children [including L.E.]
95 | are 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

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

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

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

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

WHEREAS, L.E.'s parents were arrested, charged, and

convicted of aggravated child abuse, based upon their abuse of L.E. while she was in their home between August 21, 2019, and September 25, 2019, and

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

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

WHEREAS, L.E., who just turned 6 years old, is currently under an individual educational plan at school for her disability, which has been formally classified as traumatic brain injury, and

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

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

WHEREAS, the department's negligence, in combination with the failures of its subcontracted agency, resulted in

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151 catastrophic brain injury that will have a significant impact on
152 L.E. for the 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,

172
173 Be It Enacted by the Legislature of the State of Florida:

174
175 **Section 1.** The facts stated in the preamble to this act

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are found and declared to be true.

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

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

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

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