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1 A bill to be entitled
2 An act for the relief of L.T., a minor; providing an
3 appropriation to compensate L.T., a minor, for
4 injuries and damages sustained as a result of the
5 negligence of employees of the Department of Children
6 and Family Services; providing for payment to the
7 special needs trust for L.T.; providing a limitation
8 of the payment of fees and costs; providing an
9 effective date.

10
11 WHEREAS, on August 15, 1995, the Department of Children and
12 Family Services (DCF) removed 14-month-old L.T. and her infant
13 brother from their mother's custody because they were not
14 receiving adequate care, and

15 WHEREAS, Judy Mandrell, a protective supervision counselor
16 for DCF, was assigned to find a foster home for the children.
17 Ms. Mandrell conducted a home study of the children's great aunt
18 and uncle, Vicki and Eddie Thomas. Ms. Mandrell recommended
19 temporarily placing the children in the Thomases' custody. Ms.
20 Mandrell's immediate supervisor, Lillie S. Pease, approved the
21 recommendation, and

22 WHEREAS, a background check was conducted shortly after the
23 children were placed in the Thomases' home. It indicated that
24 many years earlier Mr. Thomas had been convicted of a
25 misdemeanor and possession of narcotics equipment and that Ms.
26 Thomas had been charged with larceny. The background check did
27 not reveal any prior history of violence, sex offenses, or child
28 abuse, and

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29 WHEREAS, Ms. Mandrell and Ms. Pease ultimately concluded
30 that the Thomases were capable of providing the children a safe
31 and loving home and approved the placement. Ms. Mandrell made
32 case notes which stated that she was making monthly home visits
33 to assess the living arrangements and the children's welfare.

34 The notes were virtually identical each month, leading the
35 claimant's experts to question the validity of the visits, and

36 WHEREAS, on August 21, 1996, Mr. Thomas was charged with a
37 lewd and lascivious act on a child under the age of 16. The
38 alleged victim was the 13-year-old daughter of a woman Mr.
39 Thomas was having an affair with despite being married to Ms.
40 Thomas. The state later amended the charge to add a count for
41 sexual battery on a child by a familial or custodial authority,
42 and

43 WHEREAS, while the charges were pending, the Florida trial
44 court ordered Mr. Thomas to not have any contact with the victim
45 or her family, to vacate the home where Mr. Thomas had lived
46 with Ms. Thomas, L.T., and her brother, and to not have any
47 contact with any children. Mr. Thomas moved into his mother's
48 garage just down the street from the home where Ms. Thomas lived
49 with L.T. and her brother, and

50 WHEREAS, DCF became aware of the charges against Mr. Thomas
51 and of the court's no-contact order when L.T.'s biological
52 mother advised Ms. Mandrell of the charges and asked that L.T.
53 be removed from the home of Ms. Thomas. Ms. Mandrell spoke with
54 Ms. Thomas about the allegations and visited Mr. Thomas's
55 mother's home to confirm that Mr. Thomas was living there. Ms.
56 Mandrell continued to report that L.T. and her brother were

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57 thriving and that Ms. Thomas was providing good care. On several
58 occasions, Ms. Mandrell reminded Mr. Thomas that he must not
59 have contact with the children. However, despite the order that
60 Mr. Thomas not be in the presence of the minor children while
61 the sexual abuse related charges were pending, on one particular
62 occasion Ms. Mandrell drove up and saw Mr. Thomas with the
63 children at the Thomases' home, but nothing was done other than
64 the issuance of a verbal warning, and

65 WHEREAS, after two mistrials, on April 9, 1997, Mr. Thomas
66 pled no contest to a charge of committing a lewd and lascivious
67 act upon a 13-year-old girl and was sentenced to 5 years
68 probation and required to register as a sexual offender. As part
69 of the sentence, Mr. Thomas was ordered to not have any contact
70 with the victim and her family and was required to attend sex
71 offender classes, and

72 WHEREAS, while in the sexual offender class, Mr. Thomas
73 admitted to sexually abusing the 13-year-old daughter of his
74 girlfriend, and

75 WHEREAS, the same judge who presided over both trials of
76 Mr. Thomas also presided over the dependency case involving L.T.
77 and her brother. On May 9, 1997, 1 month after Mr. Thomas
78 entered his plea and was sentenced, and based on the
79 department's recommendations, the judge entered an order
80 allowing Mr. Thomas to return to the home of Ms. Thomas and the
81 children. The judge authorized Mr. Thomas to have unsupervised
82 contact with the children, and

83 WHEREAS, Ms. Mandrell noted in her records that the case
84 against Mr. Thomas involving commission of a lewd and lascivious

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85 act barred the Thomases from adopting, but she recommended the
86 continuation of the foster-care arrangement. Each month, Ms.
87 Mandrell's report indicated that there was little or no risk of
88 abuse to the children, and

89 WHEREAS, on March 3, 2000, given the department's
90 recommendation of long-term placement of L.T. and her brother
91 with the Thomases despite the sexual abuse history of Mr.
92 Thomas, the same judge acting in the dependency case approved
93 the children's long-term placement with the Thomases, thus
94 removing them from protective services, and

95 WHEREAS, 3 years later, on March 24, 2003, an anonymous
96 caller to DCF alleged that L.T. was being abused by Mr. Thomas
97 and that both Mr. and Ms. Thomas were using drugs in the
98 children's presence. The anonymous caller asserted that Mr.
99 Thomas was "a proven sex offender." Jennifer Johnson, a child
100 protective investigator for DCF, was assigned to investigate the
101 allegations. Gayla Spivey, Ms. Johnson's supervisor, oversaw the
102 investigation, and

103 WHEREAS, on March 25, 2003, the day after the anonymous
104 report was received, Ms. Johnson testified in her deposition
105 that she interviewed L.T., her brother, and Ms. Thomas. L.T.
106 testified in her deposition that the interviews took place in
107 the presence of Ms. Thomas and that she felt intimidated and
108 unable to tell the truth for fear of repercussions. Both
109 children denied the abuse allegations and said that they were
110 happy in the Thomases' home. According to Ms. Johnson, the
111 children said they understood the difference between good and
112 bad touches and had never been touched in a manner that made

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113 | them uncomfortable, and

114 | WHEREAS, according to Ms. Johnson, she ran additional
115 | background checks on the Thomases and required that they submit
116 | to drug tests. She testified that the background checks revealed
117 | nothing new, and the drug tests came back negative. Ms. Johnson
118 | prepared a report concluding that L.T. and her brother were not
119 | being abused and were not at risk of abuse. Ms. Johnson
120 | concluded that the case should be closed, and her supervisor,
121 | Ms. Spivey, approved the report and the closing of the case, and

122 | WHEREAS, on February 24, 2005, L.T. ran away from the
123 | Thomases' home and was found by law enforcement officers. She
124 | ran away because she had been sexually abused by Mr. Thomas and
125 | physically abused by Ms. Thomas. L.T. told the officers that Mr.
126 | Thomas sexually abused her from October 2004 to late December
127 | 2004. L.T. also said that she had been disciplined by Ms. Thomas
128 | with spankings, using belts, cords, hair brushes, and other
129 | instruments of harm, and DCF immediately removed L.T. and her
130 | brother from the Thomases' home and placed her in the home of
131 | her maternal aunt who became her guardian, and

132 | WHEREAS, L.T., by and through her guardian, brought
133 | separate lawsuits in the Second Judicial Circuit in and for Leon
134 | County, Florida, pursuant to s. 768.28, Florida Statutes,
135 | alleging that DCF was negligent in its placement, supervision
136 | and care of L.T., and in the United States District Court for
137 | the Northern District of Florida, alleging that DCF employees,
138 | Ms. Mandrell, Ms. Pease, Ms. Johnson, and Ms. Spivey, were
139 | deliberately indifferent to the risk that Mr. Thomas would
140 | sexually abuse L.T., thus violating her right to substantive due

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141 process under the Fourteenth Amendment, and

142 WHEREAS, a jury trial was pending in the state court case
143 filed in Leon County when a pretrial court-ordered mediation
144 resulted in a settlement agreement between the parties, and

145 WHEREAS, in the meantime, Ms. Mandrell, Ms. Pease, Ms.
146 Johnson, and Ms. Spivey filed a motion for summary judgment, and
147 the trial court granted it. All federal law claims against Judy
148 Mandrell, Lillie S. Pease, Jennifer Johnson, and Gayla Spivey
149 were dismissed with prejudice and all state law claims were
150 dismissed without prejudice, and the case was before the
151 Eleventh Circuit Court of Appeal at the time the court-ordered
152 mediated settlement was reached, and

153 WHEREAS, on June 21, 2010, the parties agreed to a mediated
154 settlement whereby all claims in state and federal court were
155 voluntarily dismissed and under which L.T. shall receive \$1
156 million, of which \$200,000 was paid and the balance of \$800,000
157 shall be submitted through a claim bill that DCF agrees to
158 support, and

159 WHEREAS, L.T. was removed from the home of her maternal
160 aunt and guardian on May 27, 2011, and has been residing in a
161 group home located in Manatee County, and

162 WHEREAS, L.T. was recently evaluated under the Baker Act
163 out of concern that she may harm herself, and

164 WHEREAS, L.T. has demonstrated on various occasions that
165 the multiple sexual and physical abuse traumas she experienced
166 as a child were due to her placement by DCF into the home of a
167 known child sexual predator and lack of supervision thereafter,
168 and has resulted in L.T.'s injuries for which she will require

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169 mental health care and services for her lifetime, and

170 WHEREAS, L.T. is in dire need of continued care and mental
171 health services at this time, 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
176 are found and declared to be true.

177 Section 2. There is appropriated from the General Revenue
178 Fund to the Department of Children and Family Services the sum
179 of \$800,000 for the relief of L.T., to be paid to the special
180 needs trust for L.T., for injuries and damages sustained. After
181 payment of attorney's fees and costs, lobbying fees, other
182 similar expenses relating to this claim, outstanding medical
183 liens, and other immediate needs, the remaining funds shall be
184 placed into a special needs trust created for the exclusive use
185 and benefit of L.T.

186 Section 3. The Chief Financial Officer is directed to draw
187 a warrant in the sum of \$800,000, payable to the L.T. Special
188 Needs Trust, upon funds in the State Treasury to the credit of
189 the Department of Children and Family Services, and the Chief
190 Financial Officer is directed to pay the same out of such funds
191 in the State Treasury not otherwise appropriated.

192 Section 4. Any amount awarded pursuant to the waiver of
193 sovereign immunity under s. 768.28, Florida Statutes, and the
194 amount awarded under this act are intended to provide the sole
195 compensation for all present and future claims arising out of
196 the factual situation described in the preamble to this act

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197 which resulted in the injury to L.T. The total amount paid for
198 attorney's fees, lobbying fees, costs, and other similar
199 expenses relating to this claim may not exceed 25 percent of the
200 total amount awarded under this act.

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