

By Senator Gruters

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1 A bill to be entitled
2 An act for the relief of H.H. by the Department of
3 Children and Families; providing an appropriation to
4 compensate H.H. 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 certain fees and costs; providing an effective
8 date.

9
10 WHEREAS, on May 3, 2017, H.H. was a healthy, normally
11 developing 18 month old, when the Department of Children and
12 Families received its first child abuse hotline report regarding
13 H.H., which alleged substance abuse by H.H.'s mother and
14 stepfather and that H.H.'s mother and stepfather were selling
15 drugs out of, and harboring a fugitive in, the home, and

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

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

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

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59 revoked, battery on a law enforcement officer, and escape, for
60 which he was sentenced to 4 years in prison, and

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

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

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

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

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

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

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

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

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

119 WHEREAS, only then did the department finally remove H.H.
120 from the care of her mother, placing her in the custody of the
121 department, 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 neglect
128 causing great bodily harm and was sentenced to 25 years in
129 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 requiring 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 and surgery, spasticity, neuro
140 storming/automatic dysfunction, obstructive sleep apnea, chronic
141 constipation and gastroesophageal reflux disease, and chronic
142 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

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146 WHEREAS, in November 2022, H.H. underwent corpus callostomy
147 surgery to treat seizures that were occurring multiple times
148 daily, and

149 WHEREAS, H.H. will require additional brain surgical
150 procedures in the future and will be catheterized to assist with
151 going to the bathroom, and

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

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

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

162 WHEREAS, as the state agency charged under chapter 39,
163 Florida Statutes, with operating the child welfare system in
164 this state, including the conduct of child protective
165 investigations to ensure child safety and the prevention of
166 further harm to children, the department failed in its duty to
167 ensure H.H.'s safety and protect her from harm, NOW, THEREFORE,

168

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

170

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

173 Section 2. The sum of \$14,926,639.56 is appropriated from
174 the General Revenue Fund to the Department of Children and

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175 Families for the relief of H.H. for injuries and damages
176 sustained as a result of the negligence of the department.

177 Section 3. The Chief Financial Officer is directed to draw
178 a warrant in favor of H.H., payable to an irrevocable trust
179 created for the exclusive use and benefit of H.H., in the sum of
180 \$14,926,639.56 upon funds of the Department of Children and
181 Families in the State Treasury and to pay the same out of such
182 funds in the State Treasury.

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

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