

CHAPTER 2017-57

Committee Substitute for House Bill No. 6501

An act for the relief of J.D.S.; providing an appropriation from the General Revenue Fund to compensate J.D.S. for injuries and damages sustained as a result of the negligence of the Agency for Persons with Disabilities, as successor agency of the Department of Children and Family Services; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, in December 2002, J.D.S., a 22-year-old developmentally disabled woman with autism, cerebral palsy, and mental retardation, was living at the Strong Group Home, which was owned and operated by Hester Strong and licensed and supervised by the Department of Children and Family Services, and

WHEREAS, in December 2002, J.D.S. was raped and impregnated by Philip Strong, husband of the owner and operator of the Strong Group Home, and

WHEREAS, on April 24, 2003, J.D.S.'s pregnancy was discovered by her physician, and on August 30, 2003, J.D.S. gave birth to a baby girl, known as G.V.S., who was immediately taken from J.D.S. and placed for adoption, and

WHEREAS, as a result of her rape and impregnation, J.D.S. sustained mental anguish and a further diminution in the quality of her life, and

WHEREAS, J.D.S. filed a claim in Orange County Circuit Court alleging that the department negligently supervised the Strong Group Home and that the Strong Group Home was negligently operated, thereby allowing Philip Strong to rape J.D.S., which resulted in her impregnation, and

WHEREAS, J.D.S.'s claims against the department, the Strong Group Home, and other parties were based upon negligence, violations of chapter 393, Florida Statutes, and violations of the Bill of Rights of Persons with Developmental Disabilities, as set forth in s. 393.13, Florida Statutes, and

WHEREAS, as a client of the department, as the term "client" is defined in s. 393.063, Florida Statutes, J.D.S. had a right under s. 393.13, Florida Statutes, to "dignity, privacy, and humane care, including the right to be free from abuse, including sexual abuse, neglect, and exploitation," and

WHEREAS, J.D.S. alleged that the department had a nondelegable duty to protect her from foreseeable harm, including sexual abuse, and

WHEREAS, J.D.S. alleged that the department was liable for direct negligence relating to its oversight of the Strong Group Home and that it was vicariously liable for the negligence of the Strong Group Home under the

doctrine of respondeat superior established under s. 768.28(9)(a), Florida Statutes, and

WHEREAS, before the jury trial was scheduled to commence on February 6, 2012, the parties agreed to settle the case titled *Patti R. Jarrell, as plenary guardian of J.D.S., an incapacitated person, Plaintiff, v. State of Florida, Agency for Persons With Disabilities, as successor agency of the Department of Children and Family Services*, for the sum of \$1.15 million, and

WHEREAS, under the terms of the settlement agreement consented to by the parties, the Agency for Persons with Disabilities agreed to pay \$200,000 to J.D.S., with the remaining \$950,000 to be paid pursuant to a stipulated claim bill, and

WHEREAS, the agency has agreed to request an appropriation from the Legislature in the amount of \$950,000, and

WHEREAS, the \$950,000 stipulated settlement is sought through the submission of a claim bill to the Legislature, 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 \$950,000 is appropriated from the General Revenue Fund to the Agency for Persons with Disabilities for the relief of J.D.S. as compensation for the injuries and damages she sustained.

Section 3. The Chief Financial Officer shall draw a warrant upon funds of the Agency for Persons with Disabilities in the sum of \$950,000 and shall pay such amount out of funds in the State Treasury to the AGED Pooled Special Needs Trust, which shall be managed and administered on behalf of J.D.S. by AGED, Inc., a nonprofit trust company.

Section 4. The amount paid by the Agency for Persons with Disabilities 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 arising out of the factual situation described in this act which resulted in the injuries and damages to J.D.S. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed \$237,000, the total amount paid for lobbying fees may not exceed \$47,500, and no amount may be paid for costs and other similar expenses relating to this claim.

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

Approved by the Governor June 2, 2017.

Filed in Office Secretary of State June 2, 2017.