

CHAPTER 2017-58

Committee Substitute for Committee Substitute for House Bill No. 6511

An act for the relief of L.T.; providing an appropriation to compensate L.T. for injuries and damages sustained as a result of the negligence of employees of the Department of Children and Families, formerly known as the Department of Children and Family Services; providing legislative intent regarding certain Medicaid liens; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on August 15, 1995, the Department of Children and Families removed 14-month-old L.T. and her infant brother from their mother's custody because they were not receiving adequate care, and

WHEREAS, the Department of Children and Families temporarily placed the children into the home of the children's great aunt and uncle, Vicki and Eddie Thomas, and

WHEREAS, a background check that was conducted shortly after L.T. and her brother were placed in the Thomases' home indicated that Mr. Thomas had once been convicted of a misdemeanor and possession of narcotics equipment, and

WHEREAS, the background check also revealed that Ms. Thomas had been charged with, but apparently not convicted of, larceny, and

WHEREAS, the background check did not reveal any prior history of violence, sex offenses, or child abuse, and

WHEREAS, after conducting a home study, interviews, and an investigation, the Department of Children and Families concluded that the Thomases were capable of providing a safe home for L.T. and her brother and approved the placement, and

WHEREAS, on August 21, 1996, approximately 1 year after L.T. and her brother had been placed in the Thomases' home, Mr. Thomas was charged with committing a lewd and lascivious act on a child under the age of 16, and

WHEREAS, the alleged victim was the 13-year-old daughter of a woman with whom Mr. Thomas was having an extramarital affair, and the state later amended the charge to add a count for sexual battery on a child by a familial or custodial authority, and

WHEREAS, after two hung jury trials in January and March of 1997, Mr. Thomas pled no contest in April 1997 to committing a lewd, lascivious, and indecent act on a child under the age of 16, and

WHEREAS, Mr. Thomas was sentenced to 5 years' probation and required to attend sex offender classes and register as a sex offender, and

WHEREAS, on May 9, 1997, 1 month after Mr. Thomas entered his plea and was convicted of a child sex crime, the Department of Children and Families recommended, and the judge approved, an order allowing Mr. Thomas to return home and have unsupervised contact with the children, and

WHEREAS, although the policies of the Department of Children and Families barred Mr. Thomas from being able to adopt a child because of his conviction for a sex act with a child and his sex offender status, the policies did not prohibit the continued placement of L.T. and her brother in the Thomases' home, and so the children remained with the Thomases, and

WHEREAS, the Department of Children and Families subsequently recommended to the court the permanent, long-term placement of L.T. and her brother in the Thomases' home and further recommended that the children be removed from protective services, with no further supervision by the department, and

WHEREAS, on March 3, 2000, following the recommendation of the Department of Children and Families, the court approved L.T. and her brother's long-term placement with the Thomases and removed the children from continued protective services, and

WHEREAS, on March 24, 2003, an abuse hotline call to the Department of Children and Families reported that L.T. was being abused by Mr. Thomas and that both Mr. and Ms. Thomas were using drugs in the children's presence, and

WHEREAS, the next day, a child protective investigator for the Department of Children and Families interviewed L.T. and her brother while in the presence of Ms. Thomas, and neither child was asked to be interviewed outside Ms. Thomas's presence, and

WHEREAS, L.T. and her brother denied the abuse allegations while Ms. Thomas watched and listened to them, and

WHEREAS, results from new background checks and drug screens were negative, and the Department of Children and Families concluded that L.T. and her brother were not at risk of abuse and closed the case, and

WHEREAS, on February 24, 2005, L.T. ran away from the Thomases' home and was found by law enforcement officers, and

WHEREAS, L.T. ran away from home because she had been repeatedly sexually and physically abused by Mr. Thomas and physically, verbally, and emotionally abused for years by Ms. Thomas, and

WHEREAS, L.T. and her brother were finally removed from the Thomases' home in 2005, and

WHEREAS, during her adolescent and teenaged years, L.T. was the subject of repeated Baker Act proceedings and suicide attempts and was in and out of inpatient and outpatient psychiatric facilities, and

WHEREAS, L.T. has been seen and treated by physicians and mental health care professionals who have diagnosed her with depression, post-traumatic stress disorder, anxiety disorder, and other disorders attributed to her trauma, and

WHEREAS, although L.T. struggles with the symptoms of depression, posttraumatic stress disorder, and anxiety disorder, she is now 22 years of age, is married to a Naval Petty Officer who is stationed at Naval Air Station Jacksonville, is the mother of 2 very young daughters, and attends Florida State College at Jacksonville as she works toward her goal of becoming a mental health care professional specializing in treating children who have been abused, neglected, or traumatized, and

WHEREAS, a lawsuit was brought on L.T.'s behalf in state and federal courts alleging negligence pursuant to s. 768.28, Florida Statutes, and civil rights violations pursuant to 42 U.S.C. s. 1983, and

WHEREAS, the civil rights claims were disposed of by the trial court, but the negligence claims continued to be litigated, and a jury trial of the case was set in Leon County, and

WHEREAS, the parties attended a court-ordered mediation and on June 21, 2010, agreed to a mediated settlement under which L.T. will receive \$1 million, of which \$200,000 has been paid, and the claim for the remaining \$800,000 is being submitted through this bill, which the Department of Children and Families agrees to support, 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. There is appropriated from the General Revenue Fund to the Department of Children and Families the sum of \$800,000 for the relief of L.T. for the injuries and damages she sustained. After payment of attorney fees and costs, lobbying fees, and other similar expenses relating to this claim; outstanding medical liens other than Medicaid liens; and other immediate needs, the remaining funds shall be placed into a trust created for the exclusive use and benefit of L.T. The trust shall be administered by an institutional trustee of L.T.'s choosing and shall terminate upon L.T.'s 25th birthday, at which time the remaining principal and interest shall revert to L.T. or, if she predeceases the termination of the trust, to her heirs, beneficiaries, or estate.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of L.T. in the sum of \$800,000 upon funds in the State Treasury to the credit of the Department of Children and Families, and the Chief Financial Officer is directed to pay the same out of such funds in the State Treasury.

Section 4. It is the intent of the Legislature that any and all Medicaid liens arising from the treatment and care of the injuries and damages to L.T. described in this act shall be waived or paid by the state.

Section 5. The amount awarded pursuant to the waiver of sovereign immunity under 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 the preamble to this act which resulted in the injuries and damages to L.T. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed \$120,000, the total amount paid for lobbying fees may not exceed \$80,000, and no amount may be paid for costs and other similar expenses relating to this claim.

Section 6. 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.