

By the Committee on Children, Families, and Elder Affairs; and
Senator Storms

586-04751-10

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1 A bill to be entitled

2 An act for the relief of Pierreisna Archille;
3 providing an appropriation to compensate Pierreisna
4 Archille, a mentally disabled person, by and through
5 Darlene Achille, Limited Guardian of Property for
6 Pierreisna Archille, for injuries and damages
7 sustained as a result of the negligence of employees
8 of the Department of Children and Family Services;
9 providing for reversion of funds; providing a
10 limitation on the payment of attorney's fees, lobbying
11 fees, costs, and other similar expenses relating to
12 the claim; providing an effective date.

13
14 WHEREAS, Pierreisna Archille, a 28-year-old moderately
15 retarded woman, has the cognitive ability of a child between
16 kindergarten and first-grade level, and

17 WHEREAS, because of allegations of neglect against her
18 biological mother and stepfather, Pierreisna Archille and her
19 sisters, Darlene and Muriel, were placed in foster care in 1993,
20 and

21 WHEREAS, in 1997, when Pierreisna Archille was 15 years
22 old, the Archille children were placed in the foster home of
23 Bonifacio and Josephine Velazquez, and

24 WHEREAS, the Velazquez foster home was licensed,
25 supervised, and monitored by the Department of Children and
26 Family Services and its employees and agents, and

27 WHEREAS, after placement of the Archille children in the
28 foster home, Darlene Achille complained that Bonifacio
29 Velazquez, the foster father, was sexually molesting her and was

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30 also molesting S.A., a toddler, and

31 WHEREAS, after these complaints were made, both Darlene and
32 Muriel were removed from the Velazquez home, but Pierreisna
33 Archille remained in the home, and

34 WHEREAS, between June of 1998 through June of 1999,
35 Bonifacio Velazquez repeatedly raped and molested Pierreisna
36 Archille, resulting in her impregnation and subsequent birth of
37 a daughter, and

38 WHEREAS, after the birth of Pierreisna Archille's daughter,
39 Takeisha, Pierreisna Archille's younger sister, Darlene, then 19
40 years old, undertook the responsibility of helping Pierreisna
41 Archille take care of her daughter, and

42 WHEREAS, as a developmentally disabled person, Pierreisna
43 Archille is in need of funds necessary for her to care for her
44 daughter with the assistance of her sister, Darlene, and

45 WHEREAS, Pierreisna Archille continues to suffer nightmares
46 and extreme emotional and psychological trauma as a result of
47 the actions giving rise to this claim, and

48 WHEREAS, a life-care continuum was formulated by
49 comprehensive rehabilitation consultants detailing the funds
50 necessary to provide treatment to Pierreisna Archille, as well
51 as to help provide for the support necessary for Pierreisna
52 Archille to take care of her daughter, and

53 WHEREAS, Dr. Fred Raffa, an economist, reduced such cost to
54 present value in the amount of \$4,067,431, and

55 WHEREAS, the dependency court appointed a Limited Guardian
56 of Property for Pierreisna Archille for the purpose of assisting
57 in obtaining compensation for her damages, and

58 WHEREAS, a lawsuit was filed on behalf of the Limited

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59 Guardian of Property for Pierreisna Archille in Naples, Florida,
60 against the Department of Children and Family Services, and

61 WHEREAS, Pierreisna Archille, by and through her previous
62 Limited Guardian of Property, Patrick Weber, and the Department
63 of Children and Family Services agreed to mediation to resolve
64 this matter and entered into a settlement agreement to
65 compensate Pierreisna Archille for her damages and to provide a
66 basis for this claim bill, and

67 WHEREAS, as a result of good-faith negotiations between the
68 parties at a court-sanctioned mediation, the Department of
69 Children and Family Services and the Limited Guardian of
70 Property agreed that \$1.3 million is reasonable and fair
71 compensation for Pierreisna Archille's damages, and

72 WHEREAS, the Department of Children and Family Services has
73 already paid \$100,000 in accordance with the provisions of s.
74 768.28, Florida Statutes, and

75 WHEREAS, with respect to the \$100,000 already paid by the
76 department, the appropriate parties agreed to deferred payment
77 of attorney's fees and costs of plaintiff's counsel so that
78 Pierreisna Archille could immediately have access to needed
79 funds, and

80 WHEREAS, the Department of Children and Family Services
81 desires to make good on its promise to Pierreisna Archille which
82 was made in the Settlement Agreement to compensate her for the
83 irreparable harm she suffered in the foster care system, and

84 WHEREAS, the Department of Children and Family Services
85 recognizes that Pierreisna Archille was not only victimized by
86 her caretaker, but that employees of the department broke a
87 sacred trust to her to oversee her safety and care, and

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88 WHEREAS, the Department of Children and Family Services
89 supports a claim bill in the amount of \$1.2 million, NOW,
90 THEREFORE,

91

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

93

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

96 Section 2. (1) There is appropriated from the General
97 Revenue Fund to the Department of Children and Family Services
98 the sum of \$1.2 million for the relief of Pierreisna Archille,
99 by and through Darlene Achille, Limited Guardian of Property for
100 Pierreisna Archille, for injuries and damages sustained. After
101 payment of attorney's fees and costs, lobbying fees, and other
102 similar expenses relating to this claim as provided for in this
103 section, outstanding medical liens, and other immediate needs,
104 the remaining funds shall be placed in a special-needs trust
105 created for the exclusive use and benefit of Pierreisna
106 Archille. Any funds remaining in the special-needs trust upon
107 the death of Pierreisna Archille, after payment of any
108 outstanding Medicaid liens, shall become available solely to
109 benefit Pierreisna Archille's daughter, Takeisha Archille. If
110 Takeisha Archille predeceases her mother, Pierreisna Archille,
111 all such sums shall revert to the General Revenue Fund of the
112 State of Florida.

113 (2) Any amount awarded under this act pursuant to the
114 waiver of sovereign immunity permitted under s. 768.28, Florida
115 Statutes, and this award are intended to provide the sole
116 compensation for all present and future claims arising out of

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117 the factual situation described in the preamble to this act
118 which resulted in the injury to Pierreisna Archille. The total
119 amount paid for attorney's fees, lobbying fees, costs, and other
120 similar expenses relating to this claim may not exceed 25
121 percent of the amount awarded under subsection (1).

122 Section 3. The Chief Financial Officer is directed to draw
123 a warrant in the sum of \$1.2 million payable to Pierreisna
124 Archille, by and through Darlene Achille, Limited Guardian of
125 Property for Pierreisna Archille, upon funds in the State
126 Treasury to the credit of the Department of Children and Family
127 Services, and the Chief Financial Officer is directed to pay the
128 same out of such funds in the State Treasury not otherwise
129 appropriated.

130 Section 4. This act shall take effect upon becoming a law.