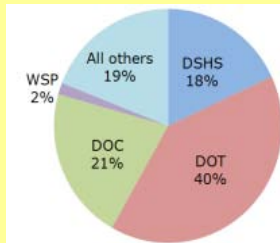


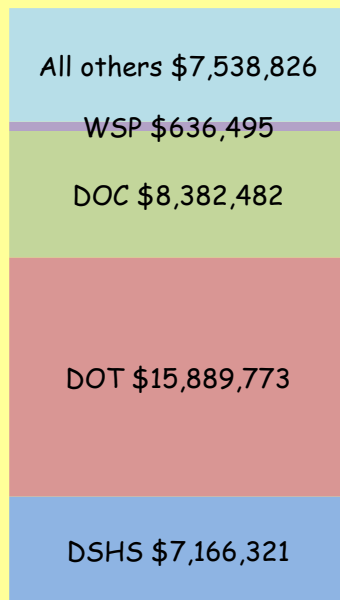
# Statewide Indemnity Payouts for FYs 07 - 09

Data Source: Office of Financial Management,  
Division of Risk Management

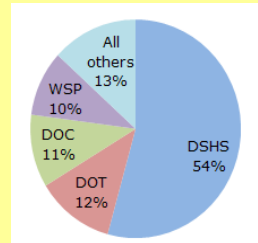
\$70,000,000  
\$60,000,000  
\$50,000,000  
\$40,000,000  
\$30,000,000  
\$20,000,000  
\$10,000,000  
\$0



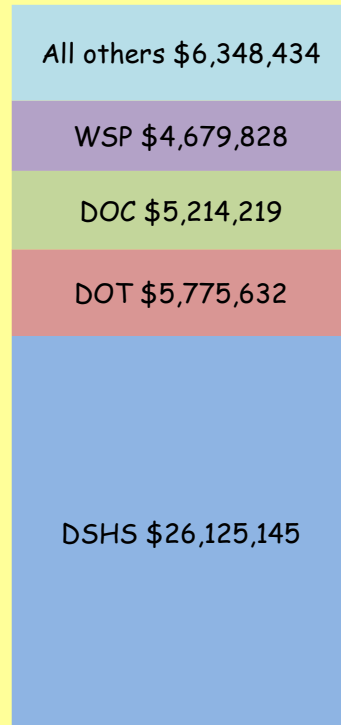
\$39,613,830 Total



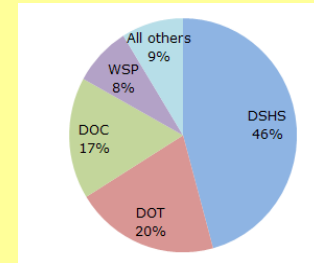
2007



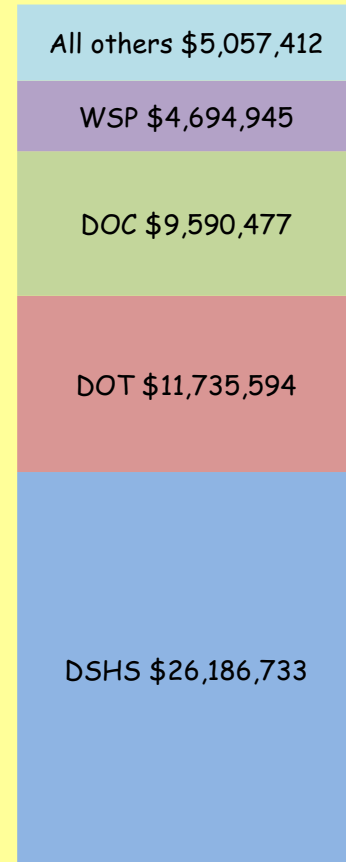
\$48,143,257 Total



2008



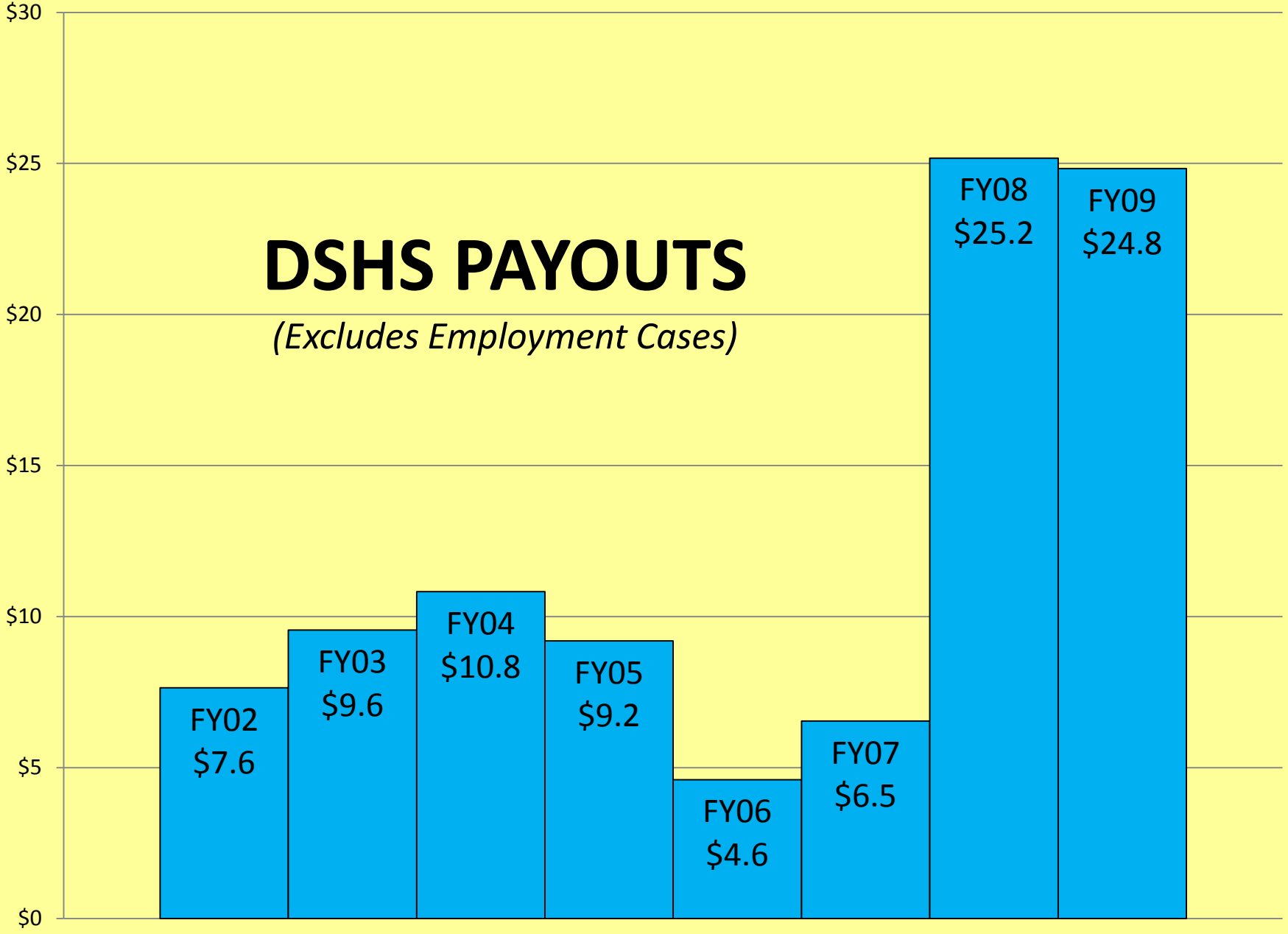
\$57,265,160 Total



2009

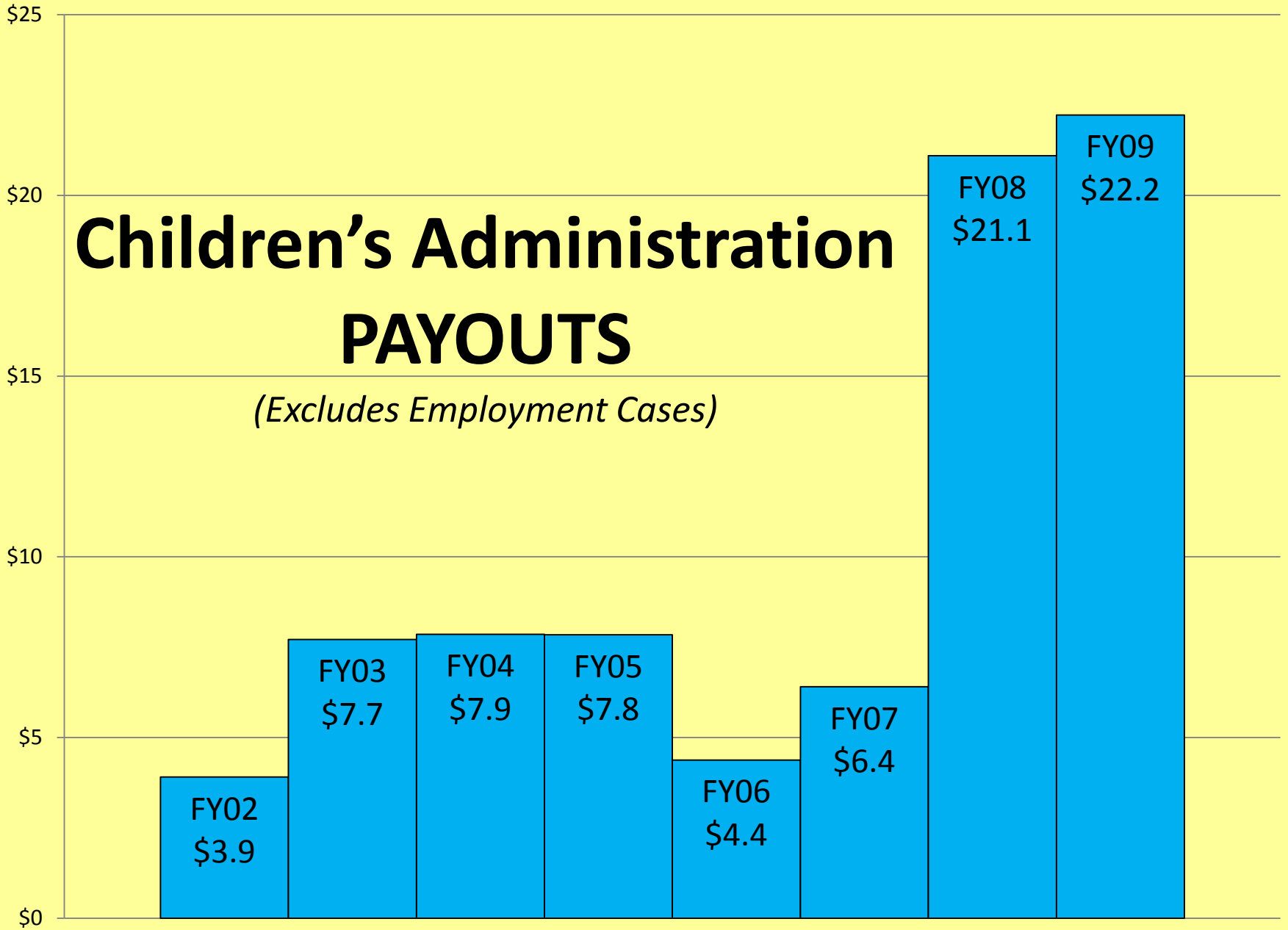
# DSHS PAYOUTS

*(Excludes Employment Cases)*



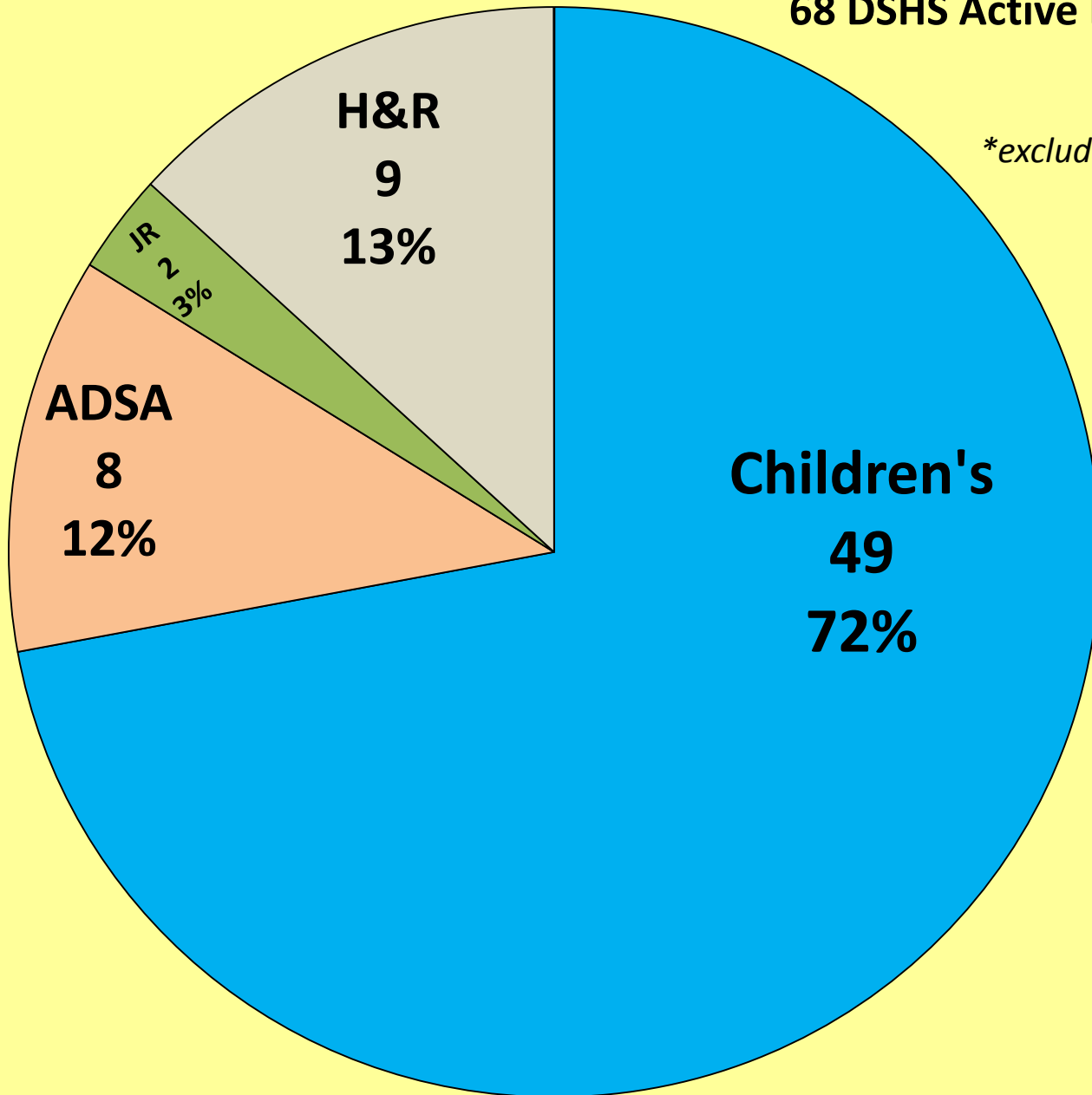
# Children's Administration PAYOUTS

*(Excludes Employment Cases)*



**68 DSHS Active Litigation Cases\*  
on 1/22/10**

*\*excludes employment cases*



# Basis for State Liability

In 1961, the legislature waived the State's sovereign immunity to make it liable in tort to the same extent as private entities:

The State of Washington, whether acting in its governmental or proprietary capacity, shall be liable for damages arising out of its tortious conduct **to the same extent as if it were a private person or corporation.**

RCW 4.92.090 (emphasis added).

# Liability Among Co-Defendants

- When the **plaintiff is fault-free**, co-defendants are jointly and severally liable for damages.
- Fault is allocated among co-defendants and other entities at fault and the amount owed by the remaining co-defendants is reduced by the amount allocated to the settling defendants.
- Damages caused by an intentional tortfeasor are allocated separately from damages caused by negligent tortfeasors.
- Juries have been reluctant to allocate damages to intentional tortfeasors or individual tortfeasors because they understand recovery from them is unlikely.

# What is a “Negligent Investigation” Claim?

**“A claim for negligent investigation against DSHS is available only to children, parents and guardians of children who are harmed because DSHS has gathered incomplete or biased information that results in a harmful placement decision, such as removing a child from a non-abusive home, placing a child in an abusive home, or letting a child remain in an abusive home.”**

1. Harmful placement or separation occurs
  - Failure to remove from abusive home
  - Wrongful removal from non-abusive home
  - Placing in an abusive home (reunification, relative, foster or group care)
  - Restricting access to child via shelter care, dependency, criminal charges, custody alterations, visitation restrictions, voluntary services, ‘no contact’ orders
2. Due to a faulty CPS investigation

# How does a negligent investigation claim relate to a licensing claim?

Same consideration for child safety

Same need for careful investigation

Dynamics among family members during course of investigation

Same liability

## Payouts Greater Than \$500,000 on DSHS Children's Administration Litigation Closed During FY 2007

	Payout	Claims
1	\$2,400,000	Physical injury of native American child by biological parents during unsupervised visits while child was in foster care.
2	\$1,825,000	Physical and sexual abuse in parental home and in foster placement requested by biological mother.
3	\$1,600,000	Injury to foster child by visiting parents
4	\$1,500,000	Sexual abuse by foster parents' child.
5	\$500,000	Sexual and physical abuse by relatives providing foster care.

## Payouts Greater Than \$500,000 on DSHS Children's Administration Litigation Closed During FY 2008

	Payout	Claims
1	\$5,400,000	Sexual and physical abuse by foster parents.
2	\$4,800,000	Sexual abuse by biological father and, subsequently, by foster parent.
3	\$1,400,000	Sexual and physical abuse by caregiver by caregiver at contracted family home.
4	\$1,000,000	Alleged sexual abuse by biological parent and relative before she came into DSHS custody (subsequent failure to provide services).
5	\$800,000	Sexual abuse by foster parent.
6	\$540,000	Sexual abuse and neglect by parents and siblings.
7	\$525,000	Sexual abuse by priest affiliated with contracted group home.
8	\$500,000	Sexual abuse of parent of dependent child by contracted provider.

## Payouts Greater Than \$500,000 on DSHS Children's Administration Litigation Closed During FY 2009

	<b>Payout</b>	<b>Claims</b>
1	\$6,825,000	Physical abuse by adoptive and foster parent.
2	\$5,250,000	Physical and sexual abuse by relative providing foster care.
3	\$5,000,000	Physical abuse by biological father.
4	\$2,000,000	Alleged physical and sexual abuse by foster parents.
5	\$1,695,000; \$755,000	Improper search and seizure of records.
6	\$1,000,000	Sexual abuse by foster parent.

Payouts Greater Than \$500,000  
on DSHS Children's Administration  
Litigation Closed During FY 2010 *YTD*

	<b>Payout</b>	<b>Claims</b>
1	\$2,500,000	Sexual abuse by foster parent.
2	\$800,000	Sexual abuse by relative and subsequent sexual abuse by other children in foster care and physical abuse by foster parent.
3	\$500,000	Physical abuse by foster parent and multiple placements.