

By Senator Storms

10-00188-12

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1                                   A bill to be entitled  
2           An act for the relief of Melvin and Alma Colindres by  
3           the City of Miami; providing for an appropriation to  
4           compensate them for the wrongful death of their son,  
5           Kevin Colindres, sustained as a result of the  
6           negligence of police officers of the City of Miami;  
7           providing a limitation on the payment of fees and  
8           costs; providing an effective date.

9  
10           WHEREAS, on December 12, 2006, Melvin and Alma Colindres  
11           called the City of Miami police department seeking help with  
12           their severely autistic and intellectually disabled son, Kevin  
13           Colindres, and

14           WHEREAS, the police officers who arrived at the Colindres'  
15           home were supposed to have been trained on interaction with and  
16           restraint of the mentally ill, such as Kevin Colindres, along  
17           with appropriate monitoring of an in-custody suspect's vital  
18           signs and the administration of cardiopulmonary resuscitation  
19           (CPR), and

20           WHEREAS, at the time of the first police officer's arrival  
21           to the Colindres' home, Kevin Colindres was calmly seated on the  
22           couch in the living room, and

23           WHEREAS, the initial police officer who arrived at the  
24           Colindres house followed her training and the City of Miami's  
25           policies and procedures and approached Kevin Colindres in a  
26           quiet and non-threatening manner and the situation remained  
27           stable, and

28           WHEREAS, the police officers then placed Kevin Colindres  
29           into custody, handcuffing him behind the back and taking him out

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30 of the house, where the police officers placed him prone on the  
31 ground and applied a hobble restraint to his ankles, and

32 WHEREAS, in violation of their training and the City of  
33 Miami's policies and procedures, the police officers left Kevin  
34 Colindres prone on the ground and applied weight to his back,  
35 and

36 WHEREAS, in violation of their training and the City of  
37 Miami's policies and procedures, the police officers left Kevin  
38 Colindres in this position in excess of 10 minutes, and

39 WHEREAS, in violation of their training and the City of  
40 Miami's policies and procedures, the police officers failed to  
41 appropriately check Kevin Colindres' vital signs, and

42 WHEREAS, in violation of their training and the City of  
43 Miami's policies and procedures, upon realizing that Kevin  
44 Colindres had stopped breathing, the officers failed to advise  
45 the fire rescue department of the urgency of the matter, thereby  
46 delaying the response by fire rescue personnel, and

47 WHEREAS, Kevin Colindres asphyxiated, causing him to suffer  
48 anoxic encephalopathy, and

49 WHEREAS, on January 5, 2007, Kevin Colindres died as a  
50 result of his injuries, and

51 WHEREAS, the police officers of the City of Miami were  
52 negligent in their actions, which directly resulted in the death  
53 of Kevin Colindres, and

54 WHEREAS, a tort claim was filed on behalf of Melvin and  
55 Alma Colindres, as personal representatives of the Estate of  
56 Kevin Colindres, Case Number 07-13294 CA 01, in the Circuit  
57 Court for the Eleventh Judicial Circuit, and

58 WHEREAS, the City of Miami filed a Motion for Arbitration

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59 that was granted by the court, and

60 WHEREAS, an arbitration was held and the arbitrator awarded  
61 the Estate of Kevin Colindres \$2,750,000, and

62 WHEREAS, the City of Miami chose not to seek a de novo  
63 trial, and

64 WHEREAS, the court granted final judgment in favor of the  
65 Estate of Kevin Colindres in the amount of \$2,750,000, plus  
66 interest at the rate of 6 percent per annum, and

67 WHEREAS, the City of Miami has agreed to pay \$200,000 to  
68 Melvin and Alma Colindres, as personal representatives of Estate  
69 of Kevin Colindres, pursuant to its statutory limits of  
70 liability, and

71 WHEREAS, the City of Miami has a private insurance policy  
72 to pay all claims in excess of \$500,000, NOW, THEREFORE,

73

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

75

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

78 Section 2. The City of Miami is authorized and directed to  
79 appropriate \$2,550,000 from funds of the city not otherwise  
80 appropriated, as well as insurance, and to draw a warrant in the  
81 sum of \$2,550,000, plus interest at the rate of 6 percent per  
82 annum, payable to Melvin and Alma Colindres, as personal  
83 representatives of the Estate of Kevin Colindres, as  
84 compensation for the wrongful death of Kevin Colindres due to  
85 negligence by police officers of the City of Miami.

86 Section 3. The amount paid by the City of Miami pursuant to  
87 s. 768.28, Florida Statutes, and the amount awarded under this

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88 act are intended to provide the sole compensation for all  
89 present and future claims arising out of the factual situation  
90 described in this act which resulted in the death of Kevin  
91 Colindres. The total amount paid for attorney's fees, lobbying  
92 fees, costs, and other similar expenses relating to this claim  
93 may not exceed 25 percent of the total amount awarded under this  
94 act.

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