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1 A bill to be entitled
2 An act for the relief of Joseph Fatta, Jr., and Josephine
3 Fatta by the Broward County Sheriff's Office; providing
4 for an appropriation to compensate them for the death of
5 their son, Deputy Todd Fatta, as a result of the
6 negligence of the Broward County Sheriff's Office;
7 providing a limitation on the payment of fees and costs;
8 providing an effective date.

9
10 WHEREAS, Kenneth Paul Wilk, a skilled marksman living in
11 Ft. Lauderdale with his boyfriend Kelly Ray Jones, owned several
12 firearms at his home, participated in shooting competitions
13 throughout the state, and harbored a deep-seated hatred toward
14 law enforcement personnel as evidenced by prior multiple
15 threats, and

16 WHEREAS, before August 18, 2004, Mr. Wilk was charged with
17 assault on a law enforcement officer, confronted and verbally
18 threatened a law enforcement officer in March of 2002, and
19 created a disturbance at the offices of the Federal Bureau of
20 Investigation in North Miami, Florida, in June of 2002, and

21 WHEREAS, on July 15, 2004, Mr. Jones was arrested for the
22 possession and transmission of child pornography, and in
23 effectuating that arrest, the Broward County Sheriff's Office
24 used its S.W.A.T team because of the dangers posed at the
25 residence that Mr. Jones and Mr. Wilk shared, and

26 WHEREAS, after the arrest of Mr. Jones, Mr. Wilk wrote to
27 Mr. Jones expressing that he desired to hurt someone, that he
28 had lost respect for human life to the point that killing would

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29 | be justified and enjoyed, and that he wanted to vent his rage
30 | against law enforcement personnel, and

31 | WHEREAS, on or about August 18, 2004, a United States
32 | magistrate judge issued federal search and arrest warrants for
33 | Mr. Wilk and his residence, and

34 | WHEREAS, due to Mr. Wilk's criminal history, his prior
35 | multiple threats against law enforcement officers, and his
36 | possession of firearms at his home, the S.W.A.T team of the
37 | Broward County Sheriff's Office was required to execute the
38 | search and arrest warrants pursuant to the policies and
39 | procedures of the sheriff's office; however, the request for the
40 | S.W.A.T team to execute the warrants was denied within the chain
41 | of command of the sheriff's office, and

42 | WHEREAS, as a result of the denial, regular uniformed
43 | police officers, including Deputy Todd Fatta from the Auto Theft
44 | Task Force of the Broward County Sheriff's Office, were ordered
45 | to execute the search and arrest warrants, and

46 | WHEREAS, on August 18, 2004, there was a detailed briefing
47 | regarding Mr. Wilk, but Deputy Fatta or other police officers
48 | from the Auto Theft Task Force were not invited to that
49 | briefing, and

50 | WHEREAS, when the Auto Theft Task Force attempted to
51 | execute the search and arrest warrants the following day, Mr.
52 | Wilk shot and killed Deputy Fatta as he entered Mr. Wilk's
53 | residence, and

54 | WHEREAS, even though Deputy Fatta and the officers from the
55 | Auto Theft Task Force were given a very short briefing in a
56 | parking lot before the execution of the search and arrest

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57 warrants on August 19, 2004, Deputy Fatta had no knowledge about
58 the investigation concerning Mr. Wilk and was unaware of the
59 information about Mr. Wilk gathered by the Broward County
60 Sheriff's Office, and

61 WHEREAS, the Broward County Sheriff's Office knew about Mr.
62 Wilk's criminal history, prior multiple threats against law
63 enforcement officers, and his possession of firearms in his
64 home, and the Broward County Sheriff's Office also knew that in
65 order to serve the search and arrest warrants on Mr. Wilk, the
66 S.W.A.T team was needed, and

67 WHEREAS, the Broward County Sheriff's Office knew or should
68 have known that its failure to use the S.W.A.T team would result
69 in great bodily injury or death; thus, the actions of the
70 Broward County Sheriff's Office constituted negligent conduct
71 certain to cause injury or death, and

72 WHEREAS, the tort claim on behalf of Joseph Fatta, Jr., and
73 Josephine Fatta, as co-personal representatives of the Estate of
74 Todd Fatta, deceased, was instituted in the Circuit Court of the
75 17th Judicial Circuit in and for Broward County, Florida, and

76 WHEREAS, former Broward County Sheriff Ken Jenne
77 acknowledged under oath in sworn testimony that the policies and
78 procedures of the Broward County Sheriff's Office were violated
79 when the sheriff's office failed to use the S.W.A.T team to
80 execute the search and arrest warrants, and that Deputy Fatta's
81 death would have been avoided if the policies and procedures had
82 been followed, and

83 WHEREAS, a prior claim against Mr. Wilk, which was
84 previously settled for \$300,000, was tendered and accepted by

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85 the plaintiffs, and a claim against the Broward County Sheriff's
86 Office was settled before trial and approved by the court on
87 September 4, 2008, and

88 WHEREAS, the settlement agreement provided for the payment
89 of \$200,000 by the Broward County Sheriff's Office to the
90 plaintiffs under the statutory limits of liability set forth in
91 s. 768.28, Florida Statutes, the entry of a consent judgment for
92 \$1.8 million, and an agreement with the Broward County Sheriff's
93 Office to cooperate and support the filing of a claim bill not
94 exceeding \$1.8 million, NOW, THEREFORE,

95

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

97

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

100 Section 2. The Broward County Sheriff's Office is
101 authorized and directed to appropriate from funds of the
102 sheriff's office not otherwise encumbered and to draw a warrant
103 in the sum of \$1.8 million, payable to Joseph Fatta, Jr., and
104 Josephine Fatta, co-personal representatives of the Estate of
105 Todd Fatta, deceased, as compensation for the death of Deputy
106 Todd Fatta which was due to gross negligence by the Broward
107 County Sheriff's Office.

108 Section 3. This award is intended to provide the sole
109 compensation for all present and future claims arising out of
110 the factual situation described in this act which resulted in
111 the death of Deputy Todd Fatta. The total amount paid for
112 attorney's fees, lobbying fees, costs, and other similar

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113 | expenses relating to this claim may not exceed 25 percent of the
114 | amount awarded under this act.

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