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

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

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

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

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

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

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

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

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

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

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

55 WHEREAS, even though Deputy Fatta and the officers from the  
56 Auto Theft Task Force were given a very short briefing in a  
57 parking lot before the execution of the search and arrest  
58 warrants on August 19, 2004, Deputy Fatta had no knowledge about

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59 the investigation concerning Mr. Wilk and was unaware of the  
60 information about Mr. Wilk gathered by the Broward County  
61 Sheriff's Office, and

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

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

73 WHEREAS, the tort claim on behalf of Joseph Fatta, Jr., and  
74 Josephine Fatta, as co-personal representatives of the Estate of  
75 Todd Fatta, deceased, was instituted in the circuit court of the  
76 17th Judicial Circuit in and for Broward County, Florida, and

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

84 WHEREAS, a prior claim against Mr. Wilk, which was  
85 previously settled for \$300,000, was tendered and accepted by  
86 the Plaintiffs, and a claim against the Broward County Sheriff's  
87 Office was settled before trial and approved by the court on

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88 September 4, 2008, and

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

96

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

98

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

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

109 Section 3. This award is intended to provide the sole  
110 compensation for all present and future claims arising out of  
111 the factual situation described in this act which resulted in  
112 the death of Deputy Todd Fatta. The total amount paid for  
113 attorney's fees, lobbying fees, costs, and other similar  
114 expenses relating to this claim may not exceed 25 percent of the  
115 amount awarded under this act.

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