

CS/HB 1315

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

28 WHEREAS, the police officers then placed Kevin Colindres

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29 into custody, handcuffing him behind the back and taking him out
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, upon realizing that Kevin
41 Colindres had stopped breathing, the officers failed to advise
42 the fire rescue department of the urgency of the matter, thereby
43 delaying the response by fire rescue personnel, and

44 WHEREAS, Kevin Colindres asphyxiated, causing him to suffer
45 anoxic encephalopathy, and

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

48 WHEREAS, the police officers of the City of Miami were
49 negligent in their actions, which directly resulted in the death
50 of Kevin Colindres, and

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

55 WHEREAS, the City of Miami filed a Motion for Arbitration
56 that was granted by the court, and

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

59 WHEREAS, the City of Miami chose not to seek a de novo
 60 trial, and

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

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

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

70

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

72

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

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

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

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

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