

By the Committee on Rules; and Senator Storms

595-05183-11

201154c1

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

595-05183-11

201154c1

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

595-05183-11

201154c1

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

595-05183-11

201154c1

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.