

By Senator Flores

37-00031-13

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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 nonthreatening manner and the situation remained  
27 stable, and

28 WHEREAS, the backup police officers violated their training  
29 and the City of Miami's policies and procedures by aggressively

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30 approaching Kevin Colindres, causing Kevin Colindres to attempt  
31 to leave the room, and

32 WHEREAS, the police officers then placed Kevin Colindres  
33 into custody, handcuffing him behind the back and taking him out  
34 of the house, where the police officers placed him prone on the  
35 ground and applied a hobble restraint to his ankles, 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 prone on the ground and applied weight to his back,  
39 and

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

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

46 WHEREAS, in violation of their training and the City of  
47 Miami's policies and procedures, upon realizing that Kevin  
48 Colindres had stopped breathing, the police officers failed to  
49 administer CPR, and

50 WHEREAS, in violation of their training and the City of  
51 Miami's policies and procedures, the police officers failed to  
52 advise the fire rescue department of the urgency of the matter,  
53 thereby delaying the response by fire rescue personnel, and

54 WHEREAS, Kevin Colindres asphyxiated, causing him to suffer  
55 anoxic encephalopathy, and

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

58 WHEREAS, the police officers of the City of Miami were

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59 negligent in their actions, which directly resulted in the death  
60 of Kevin Colindres, and

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

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

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

69 WHEREAS, the City of Miami chose not to seek a de novo  
70 trial, and

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

74 WHEREAS, the City of Miami has agreed to pay \$200,000 to  
75 Melvin and Alma Colindres, as personal representatives of Estate  
76 of Kevin Colindres, pursuant to its statutory limits of  
77 liability, and

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

80

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

82

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

85 Section 2. The City of Miami is authorized and directed to  
86 appropriate \$2,550,000 from funds of the city not otherwise  
87 appropriated, as well as insurance, and to draw a warrant in the

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88 sum of \$2,550,000, plus interest at the rate of 6 percent per  
89 annum, payable to Melvin and Alma Colindres, as personal  
90 representatives of the Estate of Kevin Colindres, as  
91 compensation for the wrongful death of Kevin Colindres due to  
92 negligence by police officers of the City of Miami.

93 Section 3. The amount paid by the City of Miami pursuant to  
94 s. 768.28, Florida Statutes, and the amount awarded under this  
95 act are intended to provide the sole compensation for all  
96 present and future claims arising out of the factual situation  
97 described in this act which resulted in the death of Kevin  
98 Colindres. The total amount paid for attorney fees, lobbying  
99 fees, costs, and other similar expenses relating to this claim  
100 may not exceed 25 percent of the total amount awarded under this  
101 act.

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