

By Senator Flores

37-00126A-14

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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.

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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
15 Colindreses' home were supposed to have been trained on
16 interaction with and restraint of the intellectually disabled
17 such as Kevin Colindres, along with appropriate monitoring of an
18 in-custody suspect's vital signs and the administration of
19 cardiopulmonary resuscitation (CPR), and

20 WHEREAS, at the time of the first police officer's arrival
21 to the Colindreses' home, Kevin Colindres was calmly seated on
22 the couch in the living room, and

23 WHEREAS, the initial police officer who arrived at the
24 Colindreses' 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 backup police officers then placed Kevin
33 Colindres into custody, handcuffing his hands behind his back,
34 taking him out of the house, and placing him prone on the ground
35 and applying 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 backup police officers left
38 Kevin Colindres prone on the ground and applied weight to his
39 back, and

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

43 WHEREAS, in violation of their training and the City of
44 Miami's policies and procedures, the backup police officers
45 failed to 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 backup police officers
49 failed to administer CPR, and

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

55 WHEREAS, Kevin Colindres asphyxiated, causing him to suffer
56 anoxic encephalopathy, and, on January 5, 2007, died as a result
57 of his injuries, and

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

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59 were negligent in their actions, which directly resulted in the
60 death 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, an arbitration was held, and the
67 arbitrator awarded the Estate of Kevin Colindres \$2.75 million,
68 and

69 WHEREAS, the City of Miami chose not to seek a de novo
70 trial, and the court granted a final judgment in favor of the
71 Estate of Kevin Colindres in the amount of \$2.75 million, plus
72 interest at the rate of 6 percent per annum, and

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

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

79

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

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

84 Section 2. The City of Miami is authorized and directed to
85 appropriate from funds of the city not otherwise appropriated,
86 as well as insurance, and to draw a warrant in the sum of \$2.55
87 million, payable to Melvin and Alma Colindres, as personal

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88 representatives of the Estate of Kevin Colindres, as
89 compensation for the wrongful death of Kevin Colindres due to
90 the negligence by police officers of the City of Miami.

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

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