

By Senator Flores

37-00061-15

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

20           WHEREAS, at the time of the first police officer's arrival  
21           at 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 to attempt to leave  
31 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  
60 Kevin Colindres' death, 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 No. 07-13294 CA 01, in the Circuit Court  
64 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:

81

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 Kevin Colindres' death.  
96 The total amount paid for attorney fees, lobbying fees, costs,  
97 and other similar expenses relating to this claim may not exceed  
98 25 percent of the total amount awarded under this act.

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