

By Senator Flores

37-00165-16

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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 assistance
12 with their severely autistic and intellectually disabled son,
13 Kevin Colindres, and

14 WHEREAS, the police officers who arrived at the
15 Colindreses' home were required, according to the City of
16 Miami's policies and procedures, to have been trained on
17 interaction with and restraint of persons with intellectual
18 disabilities, such as Kevin Colindres, along with appropriate
19 monitoring of an in-custody suspect's vital signs and the
20 administration of cardiopulmonary resuscitation (CPR), and

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

24 WHEREAS, the initial police officer who arrived at the
25 Colindreses' house followed her training and the City of Miami's
26 policies and procedures and approached Kevin Colindres in a
27 quiet and nonthreatening manner and the situation remained
28 stable, and

29 WHEREAS, the backup police officers violated their training

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30 and the City of Miami's policies and procedures by aggressively
31 approaching Kevin Colindres, causing Kevin to attempt to leave
32 the room, and

33 WHEREAS, the backup police officers then placed Kevin
34 Colindres into custody, handcuffing his hands behind his back,
35 taking him out of the house, and placing him prone on the ground
36 and applying a hobble restraint to his ankles, and

37 WHEREAS, in violation of their training and the City of
38 Miami's policies and procedures, the backup police officers left
39 Kevin Colindres prone on the ground and applied weight to his
40 back, and

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

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

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

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

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

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59 WHEREAS, the backup police officers of the City of Miami
60 were negligent in their actions, which directly resulted in
61 Kevin Colindres' death, and

62 WHEREAS, a tort claim was filed on behalf of Melvin and
63 Alma Colindres, as personal representatives of the Estate of
64 Kevin Colindres, Case No. 07-13294 CA 01, in the Circuit Court
65 for the Eleventh Judicial Circuit, and

66 WHEREAS, the City of Miami filed a Motion for Arbitration
67 that was granted by the court, an arbitration was held, and the
68 arbitrator awarded the Estate of Kevin Colindres \$2.75 million,
69 and

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

74 WHEREAS, the City of Miami has paid \$200,000 to Melvin and
75 Alma Colindres, as personal representatives of the Estate of
76 Kevin Colindres, pursuant to its statutory limits of liability,
77 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 from funds of the city not otherwise appropriated,
87 as well as insurance, and to draw a warrant in the sum of \$2.55

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88 million payable to Melvin and Alma Colindres, as personal
89 representatives of the Estate of Kevin Colindres, as
90 compensation for the wrongful death of Kevin Colindres due to
91 the negligence by police officers of the City of Miami.

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

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