

By Senator Gainer

2-00261-18

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1 A bill to be entitled
2 An act for the relief of Colton Merville; providing an
3 appropriation to compensate him for injuries and
4 damages sustained as result of the negligence of the
5 Department of Corrections in connection with the
6 shooting death of his mother, Camilla Claudine
7 Merville; providing a limitation on the payment of
8 attorney fees; providing an effective date.

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10 WHEREAS, on the evening of June 18, 2007, Camilla Claudine
11 Merville was shot and killed by probation officer Monica
12 Pennington, an employee of the Department of Corrections, in
13 front of the home where Ms. Merville rented a room from a
14 friend, Brenda Madden, and

15 WHEREAS, Officer Pennington was the parole officer for Ms.
16 Merville, who was serving a sentence of 1-year probation for
17 theft relating to the unauthorized taking of two blank checks
18 from her mother and her cashing of those checks, and

19 WHEREAS, Officer Pennington drove by the home of Ms. Madden
20 on June 18, 2007, seeking to execute a warrant for the arrest of
21 Ms. Merville for violation of her parole, and

22 WHEREAS, Officer Pennington recognized Ms. Merville on the
23 front porch of the Madden home and approached Ms. Merville to
24 make the arrest, and

25 WHEREAS, Officer Pennington failed to follow department
26 guidelines in making the arrest by failing to wait for local law
27 enforcement officers to arrive, and

28 WHEREAS, after Officer Pennington advised Ms. Merville of
29 her intent to arrest her, Ms. Merville stated that she wished to

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30 re-enter the dwelling to obtain footwear and to use the
31 restroom, and she attempted to do so, and

32 WHEREAS, a physical altercation ensued between Officer
33 Pennington and Ms. Merville and Officer Pennington shot Ms.
34 Merville in the heart with her service weapon, and

35 WHEREAS, in her testimony, Ms. Madden described the
36 physical altercation between Officer Pennington and Ms. Merville
37 and stated that Officer Pennington grabbed Ms. Merville by the
38 wrist, Ms. Merville struggled to free herself, and, during the
39 course of the struggle Ms. Merville fell backward, grabbing
40 either the hair or shirt of Officer Pennington to steady
41 herself, and

42 WHEREAS, Ms. Madden further stated that Officer Pennington
43 demanded that Ms. Merville let go of her and told her that she
44 would shoot her if she did not, and when Ms. Merville
45 immediately failed to do so, Officer Pennington discharged her
46 firearm striking Ms. Merville in the heart, and

47 WHEREAS, Officer Pennington's testimony differed
48 substantially from Ms. Madden's and another witness after-the-
49 fact regarding the altercation, and

50 WHEREAS, department guidelines require officers to use
51 deadly force only after all other reasonable efforts to avoid
52 confrontation have been exhausted, including retreat and the use
53 of defensive tactics or chemical agents, and

54 WHEREAS, Officer Pennington failed to follow department
55 regulations regarding the use of deadly force, and

56 WHEREAS, Ms. Merville, at the time of her death, had a
57 minor child named Colton Merville, and

58 WHEREAS, the estate of Ms. Merville filed suit against the

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59 department in the Circuit Court of the Fourteenth District, in
60 Bay County, Case No. 09-2315-CA, alleging the negligent death of
61 Ms. Merville, and

62 WHEREAS, at trial, the jury found that Officer Pennington
63 and the department were negligent in causing the death of Ms.
64 Merville, holding the department 60 percent at fault in the
65 death of Ms. Merville, and Ms. Merville 40 percent at fault, and

66 WHEREAS, the jury found that Colton Merville sustained
67 damages in the amount of \$650,000 for the loss of companionship,
68 instruction, and guidance, and for mental pain and suffering, as
69 the result of his mother's death, and

70 WHEREAS, on September 4, 2013, the Circuit Court of the
71 Fourteenth District entered a judgment in the amount of \$390,000
72 against the department, adjusting the total to reflect Ms.
73 Merville's comparative negligence and ordering the payment of
74 \$100,000 to Ms. Merville's estate, with the remaining judgment
75 to be the subject of a claim bill, and

76 WHEREAS, the Division of Risk Management of the Department
77 of Financial Services paid \$100,000 to the estate, the statutory
78 limit at that time under s. 768.28, Florida Statutes, and

79 WHEREAS, the estate of Ms. Merville seeks to recover the
80 remaining \$290,000 from the judgment entered by the Circuit
81 Court, NOW, THEREFORE,

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

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

87 Section 2. The sum of \$290,000 is appropriated from the

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88 General Revenue Fund to the Department of Corrections to be paid
89 for the relief of Colton Merville for injuries and damages
90 sustained.

91 Section 3. The Chief Financial Officer is directed to draw
92 a warrant in favor of the Estate of Camilla Claudene Merville in
93 the sum of \$290,000 upon funds of the Department of Corrections
94 in the State Treasury and to pay the same out of such funds in
95 the State Treasury.

96 Section 4. The amount paid by the Department of Corrections
97 pursuant to s. 768.28, Florida Statutes, and the amount awarded
98 under this act are intended to provide the sole compensation for
99 all present and future claims arising out of the factual
100 situation described in this act which resulted in injuries and
101 damages to Colton Merville. The total amount paid for attorney
102 fees may not exceed 25 percent of the amount awarded under this
103 act.

104 Section 5. This act shall take effect upon becoming a law.