

By the Committee on Judiciary; and Senator Rodriguez

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1                   A bill to be entitled  
2           An act for the relief of Patricia Ermini by the Lee  
3           County Sheriff's Office; providing for an  
4           appropriation to compensate her for injuries sustained  
5           as a result of the negligence of the Lee County  
6           Sheriff's Office; providing a limitation on the  
7           payment of attorney fees; providing an effective date.  
8

9           WHEREAS, on the evening of March 23, 2012, 71-year-old  
10          Patricia Ermini spoke on the telephone with her daughter, Robin  
11          Lacasse, who found that her mother was extremely upset in the  
12          wake of her contentious and expensive divorce after a brief  
13          marriage, and

14          WHEREAS, Ms. Lacasse suggested to her mother that she hang  
15          up, take some time to calm down, and, afterward, call her back,  
16          which her mother did; however, Ms. Lacasse missed her mother's  
17          call, and

18          WHEREAS, when Ms. Ermini failed to reach her daughter, she  
19          went to bed in her bedroom, which was being cooled by a window  
20          air conditioner, and

21          WHEREAS, over the course of half an hour, Ms. Lacasse  
22          repeatedly tried to return her mother's call, and, when her  
23          mother did not answer, Ms. Lacasse called the Lee County  
24          Sheriff's Office (LCSO) to request that a well-being check be  
25          conducted to determine whether her mother was safe, and

26          WHEREAS, shortly before 9 p.m., LCSO dispatch relayed the  
27          call for a well-being check to Deputy Charlene Palmese, with  
28          Deputies Richard Lisenbee and Robert Hamer also responding to  
29          the call, conveying the following information to the deputies:

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30 Ms. Ermini's name and age; that the request for a well-being  
31 check had been initiated by Ms. Ermini's daughter, who did not  
32 reside in Lee County and was afraid for her mother's life; that  
33 Ms. Ermini was in the middle of a difficult divorce; that Ms.  
34 Ermini had told her daughter that she "couldn't take it  
35 anymore"; that Ms. Ermini's daughter was worried that Ms. Ermini  
36 might commit suicide; that Ms. Ermini had never threatened  
37 suicide before; that Ms. Ermini did not suffer from mental  
38 illness; and that Ms. Ermini had a gun and might have been  
39 drinking, and

40 WHEREAS, at the time of the call, Deputy Lisenbee was on  
41 probation and undergoing remedial training, in part because of  
42 his demonstrated inability to control scenes or suspects through  
43 verbal commands, and he later told investigators that he could  
44 not recall receiving training in the conduct of well-being  
45 checks, and

46 WHEREAS, Deputy Palmese had completed her field training  
47 only a few days before the call, during which she received  
48 instruction on how to respond to a well-being check, but she  
49 later told investigators that she could not recall whether, at  
50 the time of the call, she had ever actually participated in a  
51 well-being check, and

52 WHEREAS, Deputy Hamer had been to many suicide threat  
53 calls, and he made it a practice to carry his rifle when it was  
54 known that a firearm was present on the premises where the  
55 subject of the call was located, and

56 WHEREAS, Deputy Lisenbee, who was the first to arrive at  
57 Ms. Ermini's home in response to the call, observed that there  
58 were no lights on in the home when he arrived and, after a brief

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59 exterior check, went to the front door, where he secured a  
60 screen door in the open position, knocked on the door, and  
61 announced, "Sheriff's Office," to no response, and

62 WHEREAS, Deputy Lisenbee determined that the front door was  
63 unlocked, opened the door, and again said, "Sheriff's Office,"  
64 followed by "Anyone here? Anyone home?" to no response, and

65 WHEREAS, Deputy Palmese was second to arrive, followed by  
66 Deputy Hamer, who, like the other deputies, parked out of view  
67 from inside the residence, and

68 WHEREAS, Deputy Hamer retrieved from the trunk of his  
69 vehicle his AR-15 rifle, which was equipped with a flashlight  
70 and a sighting device that allowed him to find his target more  
71 quickly and easily, and

72 WHEREAS, Deputy Hamer determined that the three deputies,  
73 all of whom were wearing dark green uniforms, should go into the  
74 residence to clear the house, and

75 WHEREAS, Deputy Hamer activated the flashlight on his  
76 rifle, and Deputy Lisenbee announced "Sheriff's Office" once or  
77 twice more before they entered the home, after which they  
78 proceeded to move about the dark residence in silence as they  
79 cleared the living room, finally arriving at the primary  
80 bedroom, which had double doors, both of which were closed, and

81 WHEREAS, without knocking or further announcing their  
82 presence, Deputy Lisenbee opened the right-hand bedroom door and  
83 shined his flashlight on a female, who appeared to be asleep on  
84 the bed wearing only undergarments, and

85 WHEREAS, after Deputy Lisenbee entered the bedroom doorway,  
86 he announced, "Sheriff's Office. Are you okay?" to which the  
87 woman responded, "Who's there? Who's there?," and

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88 WHEREAS, Deputy Lisenbee said, "Sheriff's Office. We're  
89 here to make sure you're okay. Are you okay?," and

90 WHEREAS, Deputy Lisenbee said that, although the woman may  
91 have sounded frightened, he did not temper his tone, nor did he  
92 ever shine his flashlight on himself to allow Ms. Ermini to see  
93 that he was, in fact, a uniformed officer, and

94 WHEREAS, Deputy Hamer said he heard Ms. Ermini say, "What  
95 are you doing here? I have a gun," and

96 WHEREAS, Deputy Hamer later acknowledged that he didn't  
97 know whether Ms. Ermini had heard or understood Deputy Lisenbee,  
98 yet nonetheless, he turned off the flashlight on his gun, "took  
99 the point," and stepped in front of Deputy Lisenbee because, he  
100 said, he had more weaponry, was the senior officer on scene, and  
101 had significantly more gun range time, and

102 WHEREAS, terrified, Ms. Ermini told the person at the  
103 doorway, whom she perceived as an intruder, to get out of her  
104 house "because [she had] a gun" and, with that, jumped up from  
105 the bed and hid behind the still-closed left-hand bedroom door,  
106 and

107 WHEREAS, it remains unclear whether Ms. Ermini grabbed her  
108 gun as she ran to shelter behind the door, and

109 WHEREAS, as Ms. Ermini tried to look around the bedroom  
110 door, she was shot multiple times, with Deputy Hamer firing  
111 seven rounds from his rifle through the closed bedroom door, and

112 WHEREAS, according to the chief crime scene investigator, a  
113 bullet fired through the middle of the door struck Ms. Ermini in  
114 her left leg, shattering her femur and causing her to fall  
115 backward onto the floor; another bullet hit her in the upper  
116 right arm, leaving a portion of her upper arm missing; and a

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117 third bullet caused a graze wound across the back of her head,  
118 and

119 WHEREAS, a wood splinter from the door lodged in her right  
120 eye, temporarily blinding her in that eye, and

121 WHEREAS, it was less than 2 minutes from the time of entry  
122 until Ms. Ermini was shot multiple times and fell to the floor,  
123 and

124 WHEREAS, Deputy Hamer notified dispatch of the shooting and  
125 continued to sweep the bedroom before finally delivering first  
126 aid to Ms. Ermini, whom he handcuffed because she was still  
127 alive and therefore posed a continuing threat to the deputies,  
128 and

129 WHEREAS, Lee County Emergency Medical Services (EMS) were  
130 dispatched at the same time as the officers and were waiting  
131 just two blocks away, which likely saved Ms. Ermini's life, and

132 WHEREAS, when the lead paramedic for EMS arrived, he  
133 determined that Ms. Ermini had life-threatening injuries to the  
134 front and back of her left leg and to the front and back of her  
135 right arm, and a laceration to the back of her head just above  
136 the neckline, and

137 WHEREAS, Ms. Ermini repeatedly asked the paramedic why she  
138 had been shot, who the intruders were, and why they were in her  
139 home, and

140 WHEREAS, Ms. Ermini's most grievous injury was the  
141 shattered femur in her left leg, and moving her caused her  
142 significant blood loss and excruciating pain, and

143 WHEREAS, Ms. Ermini was taken to Lee Memorial Hospital in  
144 critical condition and later admitted to the intensive care  
145 unit, and

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146 WHEREAS, in addition to the gunshot wounds, Ms. Ermini had  
147 numerous wounds on her face from the wood splinters from the  
148 bedroom door, and

149 WHEREAS, an LCSO lieutenant who followed the ambulance to  
150 the hospital initially refused the emergency room doctor's  
151 request to remove the handcuffs from Ms. Ermini; emergency room  
152 staff were told that Ms. Ermini "tried to kill a cop"; and Ms.  
153 Ermini's family members were denied visitation, and

154 WHEREAS, doctors were able to save Ms. Ermini's eye with  
155 surgery, but her vision has deteriorated since the incident, and

156 WHEREAS, Ms. Ermini required multiple surgeries to repair  
157 her femur and address her wounds, including multiple skin grafts  
158 on her shoulder, and

159 WHEREAS, after discharge, she suffered a severe septic  
160 infection that caused her tremendous pain, and the pain  
161 medications she was prescribed induced debilitating paranoia,  
162 and

163 WHEREAS, on March 24, 2012, Sheriff Mike Scott told the  
164 news media that Ms. Ermini shot at deputies who had responded to  
165 a well-being check and that they returned fire, which directly  
166 contradicts Deputy Hamer's statement, in which he indicated that  
167 he shot first, and

168 WHEREAS, on March 29, 2012, Ms. Ermini was arrested in the  
169 intensive care unit on two counts of aggravated assault on a law  
170 enforcement officer, which the state attorney declined to  
171 prosecute, and

172 WHEREAS, Ms. Ermini was an emergency room nurse in South  
173 Florida for many years and had worked hand-in-hand with law  
174 enforcement officers, no evidence was ever produced that she had

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175 any animus toward law enforcement officers, and it is still  
176 disputed that Ms. Ermini's weapon was discharged during the  
177 encounter, and

178 WHEREAS, Ms. Ermini remained hospitalized for about 30 days  
179 and has never fully recovered from her injuries, and

180 WHEREAS, Ms. Ermini continues to suffer acute pain,  
181 fatigue, and a limited range of motion due to the gunshot wound  
182 to her upper arm, all of which impair her ability to accomplish  
183 many of the activities of daily living, and she also suffers  
184 from debilitating posttraumatic stress disorder, and

185 WHEREAS, Ms. Ermini was forced to sell her home because she  
186 cannot afford in-home assistance, and

187 WHEREAS, Deputy Lisenbee and Deputy Hamer were terminated  
188 by the LCSO shortly after the incident, the latter for "conduct  
189 unbecoming," and

190 WHEREAS, in November 2015, Ms. Ermini filed suit against  
191 LCSO and the individual deputies involved in the call, and

192 WHEREAS, on January 12, 2018, after a 4-day trial, a jury  
193 that included a retired law enforcement officer awarded \$1  
194 million in damages to Ms. Ermini for her pain and suffering, and

195 WHEREAS, after apportionment of 75 percent of the fault to  
196 LCSO, a judgment was entered in Ms. Ermini's favor for \$750,000,  
197 and

198 WHEREAS, ultimately, after numerous procedural attempts by  
199 LCSO to overturn the judgment, the United States Court of  
200 Appeals for the 11th Circuit affirmed the judgment of the United  
201 States District Court in Ms. Ermini's favor, and on or about  
202 December 9, 2019, the Florida Sheriffs Risk Management Fund, on  
203 behalf of its insured, the Lee County Sheriff's Office, paid the

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204 statutory limit of \$200,000 in damages under section 768.28,  
205 Florida Statutes, and

206 WHEREAS, this claim bill is for recovery of the excess  
207 judgment in the amount of \$550,000, plus interest and taxable  
208 trial costs and appellate costs awarded to Ms. Ermini in the  
209 amount of \$76,769.93, for a total claim of \$626,769.93, NOW,  
210 THEREFORE,

211

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

213

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

216 Section 2. The Lee County Sheriff's Office is authorized  
217 and directed to appropriate from funds not otherwise encumbered  
218 and to draw a warrant in the sum of \$626,769.93 payable to  
219 Patricia Ermini as compensation for injuries and damages  
220 sustained.

221 Section 3. The amount paid by the Lee County Sheriff's  
222 Office, pursuant to s. 768.28, Florida Statutes, and the amount  
223 awarded under this act are intended to provide the sole  
224 compensation for all present and future claims arising out of  
225 the factual situation described in this act which resulted in  
226 injuries and damages to Patricia Ermini. The total amount paid  
227 for attorney fees relating to this claim may not exceed 25  
228 percent of the total amount awarded under this act.

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