

HB 6527

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

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

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

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

WHEREAS, over the course of half an hour, Ms. Lacasse repeatedly tried to return her mother's call and, when her mother did not answer, called the Lee County Sheriff's Office (LCSO) to request that a well-being check be 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:
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 prior to 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

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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
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 rifle

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76 and Deputy Lisenbee announced "Sheriff's Office" once or twice
77 more before the deputies entered the home, after which the
78 deputies proceeded to move about the dark residence in silence
79 as the deputies cleared the living room, finally arriving at the
80 master bedroom, which had double doors, both of which were
81 closed, and

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

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

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

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

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

97 WHEREAS, Deputy Hamer later acknowledged that he didn't
98 know whether Ms. Ermini had heard or understood Deputy Lisenbee,
99 yet nonetheless, he turned off the flashlight on his gun, "took
100 the point," and stepped in front of Deputy Lisenbee because, he

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101 said, he had more weaponry, was the senior officer on scene, and
102 had significantly more gun range time, and

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

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

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

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

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

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

125 WHEREAS, Deputy Hamer notified dispatch of the shooting and

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126 continued to sweep the bedroom before finally delivering first
127 aid to Ms. Ermini, whom he handcuffed because she was still
128 alive and therefore posed a continuing threat to the deputies,
129 and

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

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

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

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

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

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

150 WHEREAS, an LCSO lieutenant who followed the ambulance to

151 the hospital initially refused the emergency room doctor's
152 request to remove the handcuffs from Ms. Ermini; emergency room
153 staff were told that Ms. Ermini "tried to kill a cop"; and Ms.
154 Ermini's family members were denied visitation, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

200 WHEREAS, ultimately, after numerous procedural attempts by

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201 LCSO to overturn the judgment, the United States Court of
202 Appeals for the Eleventh Circuit affirmed the judgment of the
203 United States District Court in Ms. Ermini's favor, and on or
204 about December 9, 2019, the Florida Sheriffs Self Insurance
205 Fund, on behalf of its insured, the Lee County Sheriff's Office,
206 paid the statutory limit of \$200,000 in damages under section
207 768.28, Florida Statutes, and

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

213
214 Be It Enacted by the Legislature of the State of Florida:

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

218 **Section 2.** The Florida Sheriffs Risk Management Fund is
219 authorized and directed to appropriate from funds not otherwise
220 encumbered and to draw a warrant in the sum of \$626,769.93
221 payable to Patricia Ermini as compensation for injuries and
222 damages sustained.

223 **Section 3.** The amount paid by the Florida Sheriffs Self
224 Insurance Fund, on behalf of its insured, the Lee County
225 Sheriff's Office, pursuant to s. 768.28, Florida Statutes, and

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226 the amount awarded under this act are intended to provide the
227 sole compensation for all present and future claims arising out
228 of the factual situation described in this act which resulted in
229 injuries and damages to Patricia Ermini. The total amount paid
230 for attorney fees relating to this claim may not exceed 25
231 percent of the total amount awarded under this act.

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