

By 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 compensation and attorney fees; providing  
8 an effective date.  
9

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

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

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

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

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

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the call, conveying the following information to the deputies:  
Ms. Ermini's name and age; that the request for a well-being  
check had been initiated by Ms. Ermini's daughter, who did not  
reside in Lee County and was afraid for her mother's life; that  
Ms. Ermini was in the middle of a difficult divorce; that Ms.  
Ermini had told her daughter that she "couldn't take it  
anymore"; that Ms. Ermini's daughter was worried that Ms. Ermini  
might commit suicide; that Ms. Ermini had never threatened  
suicide before; that Ms. Ermini did not suffer from mental  
illness; and that Ms. Ermini had a gun and might have been  
drinking, and

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

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

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

WHEREAS, Deputy Lisenbee, who was the first to arrive at  
Ms. Ermini's home in response to the call, observed that there

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were no lights on in the home when he arrived and, after a brief exterior check, went to the front door, where he secured a screen door in the open position, knocked on the door, and announced, "Sheriff's Office," to no response, and

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

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

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

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

WHEREAS, Deputy Hamer activated the flashlight on his rifle, and Deputy Lisenbee announced "Sheriff's Office" once or twice more before they entered the home, after which they proceeded to move about the dark residence in silence as they cleared the living room, finally arriving at the primary

bedroom, which had double doors, both of which were closed, and

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

WHEREAS, after Deputy Lisenbee entered the bedroom doorway, he announced, "Sheriff's Office. Are you okay?" to which the

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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  
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

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right arm, leaving a portion of her upper arm missing; and a third bullet caused a graze wound across the back of her head, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, ultimately, after numerous procedural attempts by LCSO to overturn the judgment, the United States Court of Appeals for the 11th Circuit affirmed the judgment of the United States District Court in Ms. Ermini's favor, and on or about December 9, 2019, the Florida Sheriffs Risk Management Fund, on behalf of its insured, the Lee County Sheriff's Office, paid the statutory limit of \$200,000 in damages under section 768.28,

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Florida Statutes, and

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

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

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

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

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

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