

PCS for CS/HB 969

ORIGINAL

2012

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, sustained 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, Nerania Colindres called the
11 City of Miami police department seeking help with her severely
12 autistic and intellectually disabled 18-year-old brother, Kevin
13 Colindres, who was hurting his mother, Alma Colindres, and

14 WHEREAS, the police officers who arrived at the Colindres'
15 home were supposed to have been trained on appropriate
16 monitoring of an in-custody suspect's vital signs and the
17 administration of cardiopulmonary resuscitation (CPR), and

18 WHEREAS, at the time of the first police officer's arrival
19 to the Colindres' home, Kevin Colindres was no longer engaged in
20 violent behavior and sat down on the couch in the living room,
21 and

22 WHEREAS, Officer Pile remained on the scene and several
23 backup officers arrived at the home a short time later, and
24 while Kevin Colindres initially remained calm, he again became
25 agitated when his sister mentioned that he should be taken to
26 the hospital to treat his ear, which was infected, and he stood
27 up and began to run in the direction of his bedroom when he

28 | tripped and fell to the floor, which resulted in a laceration to
 29 | his head , and

30 | WHEREAS, while Kevin Colindres was still on the floor, the
 31 | backup officers immediately handcuffed Kevin's wrists behind his
 32 | back and removed him to the front yard, and

33 | WHEREAS, Kevin Colindres struggled against the officers'
 34 | efforts, which resulted in the officers placing Kevin face-down
 35 | on the ground and applying a hobble restraint to his ankles, and

36 | WHEREAS, in violation of their training and the City of
 37 | Miami's policies and procedures, the police officers left Kevin
 38 | Colindres prone on the ground and applied weight to his back,
 39 | even after he stopped struggling, and

40 | WHEREAS, in violation of their training and the City of
 41 | Miami's policies and procedures, and notwithstanding the obvious
 42 | fact that Kevin Colindres was no longer moving and in distress,
 43 | the officers kept him in the prone position until the arrival of
 44 | the paramedics, and

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

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

52 | WHEREAS, Kevin Colindres asphyxiated, causing him to suffer
 53 | anoxic encephalopathy, and

54 | WHEREAS, on January 5, 2007, Kevin Colindres died as a
 55 | result of his injuries, and

56 WHEREAS, the police officers of the City of Miami were
 57 negligent in their actions, which directly resulted in the death
 58 of Kevin Colindres, and

59 WHEREAS, a tort claim was filed on behalf of Melvin and
 60 Alma Colindres, as personal representatives of the Estate of
 61 Kevin Colindres, Case Number 07-13294 CA 01, in the Circuit
 62 Court for the Eleventh Judicial Circuit, and

63 WHEREAS, the City of Miami filed a Motion for Arbitration
 64 that was granted by the court, and

65 WHEREAS, an arbitration was held and the arbitrator awarded
 66 the Estate of Kevin Colindres \$2,750,000, and

67 WHEREAS, the City of Miami chose not to seek a de novo
 68 trial, and

69 WHEREAS, the court granted final judgment in favor of the
 70 Estate of Kevin Colindres in the amount of \$2,750,000, plus
 71 interest at the rate of 6 percent per annum, and

72 WHEREAS, the City of Miami has agreed to pay \$200,000 to
 73 Melvin and Alma Colindres, as personal representatives of Estate
 74 of Kevin Colindres, pursuant to its statutory limits of
 75 liability, and

76 WHEREAS, the City of Miami has a private insurance policy
 77 to pay all claims in excess of \$500,000, NOW, THEREFORE,

78
 79 Be It Enacted by the Legislature of the State of Florida:

80
 81 Section 1. The facts stated in the preamble to this act
 82 are found and declared to be true.

83 Section 2. The City of Miami is authorized and directed to

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84 appropriate \$2,550,000 from funds of the city not otherwise
85 appropriated, as well as insurance, and to draw a warrant in the
86 sum of \$2,550,000, plus interest at the rate of 6 percent per
87 annum, payable to Melvin and Alma Colindres, as personal
88 representatives of the Estate of Kevin Colindres, as
89 compensation for the wrongful death of Kevin Colindres due to
90 negligence by police officers of the City of Miami.

91 Section 3. The amount paid by the City of Miami pursuant
92 to s. 768.28, Florida Statutes, and the amount awarded under
93 this act are intended to provide the sole compensation for all
94 present and future claims arising out of the factual situation
95 described in this act which resulted in the death of Kevin
96 Colindres. The total amount paid for attorney's fees, lobbying
97 fees, costs, and other similar expenses relating to this claim
98 may not exceed 15 percent of the first \$1,000,000 awarded under
99 this act, 10 percent of the second \$1,000,000 awarded under this
100 act, and 5 percent of the remainder awarded under this act, for
101 a total of \$277,500.

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