

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, Melvin and Alma Colindres
 11 called the City of Miami police department seeking help with
 12 their severely autistic and intellectually disabled son, Kevin
 13 Colindres, and

14 WHEREAS, the police officers who arrived at the Colindres'
 15 home were supposed to have been trained on interaction with and
 16 restraint of the mentally ill, such as Kevin Colindres, along
 17 with appropriate monitoring of an in-custody suspect's vital
 18 signs and the administration of cardiopulmonary resuscitation
 19 (CPR), and

20 WHEREAS, at the time of the first police officer's arrival
 21 to the Colindres' home, Kevin Colindres was calmly seated on the
 22 couch in the living room, and

23 WHEREAS, the initial police officer who arrived at the
 24 Colindres house followed her training and the City of Miami's
 25 policies and procedures and approached Kevin Colindres in a
 26 quiet and non-threatening manner and the situation remained
 27 stable, and

28 WHEREAS, the backup police officers violated their training

29 | and the City of Miami's policies and procedures by aggressively
 30 | approaching Kevin Colindres, causing Kevin Colindres to attempt
 31 | to leave the room, and

32 | WHEREAS, the police officers then placed Kevin Colindres
 33 | into custody, handcuffing him behind the back and taking him out
 34 | of the house, where the police officers placed him prone on the
 35 | ground and applied 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 | and

40 | WHEREAS, in violation of their training and the City of
 41 | Miami's policies and procedures, the police officers left Kevin
 42 | Colindres in this position in excess of 10 minutes, and

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

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

50 | WHEREAS, in violation of their training and the City of
 51 | Miami's policies and procedures, the police officers failed to
 52 | advise the fire rescue department of the urgency of the matter,
 53 | thereby delaying the response by fire rescue personnel, and

54 | WHEREAS, Kevin Colindres asphyxiated, causing him to suffer
 55 | anoxic encephalopathy, and

56 | WHEREAS, on January 5, 2007, Kevin Colindres died as a

57 result of his injuries, and

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

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

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

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

69 WHEREAS, the City of Miami chose not to seek a de novo
 70 trial, and

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

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

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

80

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

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

PCS for HB 969

ORIGINAL

2012

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

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

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