

ENROLLED

CS/HB 3525

2016 Legislature

1  
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, which occurred 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 assistance  
12 with their severely autistic and intellectually disabled son,  
13 Kevin Colindres, and

14 WHEREAS, the police officers who arrived at the  
15 Colindreses' home were required, according to the City of  
16 Miami's policies and procedures, to have been trained on  
17 interaction with and restraint of persons with intellectual  
18 disabilities, such as Kevin Colindres, along with appropriate  
19 monitoring of an in-custody suspect's vital signs and the  
20 administration of cardiopulmonary resuscitation (CPR), and

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

24 WHEREAS, the initial police officer who arrived at the  
25 Colindreses' house followed her training and the City of Miami's  
26 policies and procedures and approached Kevin Colindres in a

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27 | quiet and nonthreatening manner and the situation remained  
28 | stable, and

29 |       WHEREAS, the backup police officers violated their training  
30 | and the City of Miami's policies and procedures by aggressively  
31 | approaching Kevin Colindres, causing Kevin to attempt to leave  
32 | the room, and

33 |       WHEREAS, the backup police officers then placed Kevin  
34 | Colindres into custody, handcuffing his hands behind his back,  
35 | taking him out of the house, and placing him prone on the ground  
36 | and applying a hobble restraint to his ankles, and

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

41 |       WHEREAS, in violation of their training and the City of  
42 | Miami's policies and procedures, the backup police officers left  
43 | Kevin Colindres in this position for more than 10 minutes, and

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

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

51 |       WHEREAS, in violation of their training and the City of  
52 | Miami's policies and procedures, the backup police officers

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53 failed to advise the fire rescue department of the urgency of  
54 the matter, thereby delaying the response by fire rescue  
55 personnel, and

56 WHEREAS, Kevin Colindres asphyxiated, which caused him to  
57 suffer anoxic encephalopathy, and, on January 5, 2007, he died  
58 as a result of his injuries, and

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

62 WHEREAS, a tort claim was filed on behalf of Melvin and  
63 Alma Colindres, as personal representatives of the Estate of  
64 Kevin Colindres, Case No. 07-13294 CA 01, in the Circuit Court  
65 for the Eleventh Judicial Circuit, and

66 WHEREAS, the City of Miami filed a Motion for Arbitration  
67 that was granted by the court, an arbitration was held, and the  
68 arbitrator awarded the Estate of Kevin Colindres \$2.75 million,  
69 and

70 WHEREAS, the City of Miami chose not to seek a de novo  
71 trial, and the court granted a final judgment in favor of the  
72 Estate of Kevin Colindres in the amount of \$2.75 million, plus  
73 interest at the rate of 6 percent per annum, and

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

78 WHEREAS, the Estate of Kevin Colindres and the City of

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79 Miami have entered into a settlement agreement in the amount of  
 80 \$550,000, and the City of Miami has a private insurance policy  
 81 to pay all claims in excess of \$500,000, NOW, THEREFORE,

82

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

84

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

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

94 Section 3. The amount paid by the City of Miami pursuant  
 95 to s. 768.28, Florida Statutes, and the amount awarded under  
 96 this act are intended to provide the sole compensation for all  
 97 present and future claims arising out of the factual situation  
 98 described in this act which resulted in Kevin Colindres' death.  
 99 The total amount paid for attorney fees, lobbying fees, costs,  
 100 and other similar expenses relating to this claim may not exceed  
 101 25 percent of the total amount awarded under this act.

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