

Senate Bill No. 524

An act for the relief of Joseph Fatta, Jr., and Josephine Fatta by the Broward County Sheriff's Office; providing for an appropriation to compensate them for the death of their son, Deputy Todd Fatta, as a result of the negligence of the Broward County Sheriff's Office; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, Kenneth Paul Wilk, a skilled marksman living in Ft. Lauderdale with his boyfriend Kelly Ray Jones, owned several firearms at his home, participated in shooting competitions throughout the state, and harbored a deep-seated hatred toward law enforcement personnel as evidenced by prior multiple threats, and

WHEREAS, before August 18, 2004, Mr. Wilk was charged with assault on a law enforcement officer, confronted and verbally threatened a law enforcement officer in March of 2002, and created a disturbance at the offices of the Federal Bureau of Investigation in North Miami, Florida, in June of 2002, and

WHEREAS, on July 15, 2004, Mr. Jones was arrested for the possession and transmission of child pornography, and in effectuating that arrest, the Broward County Sheriff's Office used its S.W.A.T team because of the dangers posed at the residence that Mr. Jones and Mr. Wilk shared, and

WHEREAS, after the arrest of Mr. Jones, Mr. Wilk wrote to Mr. Jones expressing that he desired to hurt someone, that he had lost respect for human life to the point that killing would be justified and enjoyed, and that he wanted to vent his rage against law enforcement personnel, and

WHEREAS, on or about August 18, 2004, a United States magistrate judge issued federal search and arrest warrants for Mr. Wilk and his residence, and

WHEREAS, due to Mr. Wilk's criminal history, his prior multiple threats against law enforcement officers, and his possession of firearms at his home, the S.W.A.T team of the Broward County Sheriff's Office was required to execute the search and arrest warrants pursuant to the policies and procedures of the sheriff's office; however, the request for the S.W.A.T team to execute the warrants was denied within the chain of command of the sheriff's office, and

WHEREAS, as a result of the denial, regular uniformed police officers, including Deputy Todd Fatta from the Auto Theft Task Force of the Broward County Sheriff's Office, were ordered to execute the search and arrest warrants, and

WHEREAS, on August 18, 2004, there was a detailed briefing regarding Mr. Wilk, but Deputy Fatta or other police officers from the Auto Theft Task Force were not invited to that briefing, and

WHEREAS, when the Auto Theft Task Force attempted to execute the search and arrest warrants the following day, Mr. Wilk shot and killed Deputy Fatta as he entered Mr. Wilk's residence, and

WHEREAS, even though Deputy Fatta and the officers from the Auto Theft Task Force were given a very short briefing in a parking lot before the execution of the search and arrest warrants on August 19, 2004, Deputy Fatta had no knowledge about the investigation concerning Mr. Wilk and was unaware of the information about Mr. Wilk gathered by the Broward County Sheriff's Office, and

WHEREAS, the Broward County Sheriff's Office knew about Mr. Wilk's criminal history, prior multiple threats against law enforcement officers, and his possession of firearms in his home, and the Broward County Sheriff's Office also knew that in order to serve the search and arrest warrants on Mr. Wilk, the S.W.A.T team was needed, and

WHEREAS, the Broward County Sheriff's Office knew or should have known that its failure to use the S.W.A.T team would result in great bodily injury or death; thus, the actions of the Broward County Sheriff's Office constituted negligent conduct certain to cause injury or death, and

WHEREAS, the tort claim on behalf of Joseph Fatta, Jr., and Josephine Fatta, as co-personal representatives of the Estate of Todd Fatta, deceased, was instituted in the circuit court of the 17th Judicial Circuit in and for Broward County, Florida, and

WHEREAS, former Broward County Sheriff Ken Jenne acknowledged under oath in sworn testimony that the policies and procedures of the Broward County Sheriff's Office were violated when the sheriff's office failed to use the S.W.A.T team to execute the search and arrest warrants, and that Deputy Fatta's death would have been avoided if the policies and procedures had been followed, and

WHEREAS, a prior claim against Mr. Wilk, which was previously settled for \$300,000, was tendered and accepted by the Plaintiffs, and a claim against the Broward County Sheriff's Office was settled before trial and approved by the court on September 4, 2008, and

WHEREAS, the settlement agreement provided for the payment of \$200,000 by the Broward County Sheriff's Office to the Plaintiffs under the statutory limits of liability set forth in s. 768.28, Florida Statutes, the entry of a consent judgment for \$1.8 million, and an agreement with the Broward County Sheriff's Office to cooperate and support the filing of a claim bill not exceeding \$1.8 million, 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. Broward County Sheriff's Office is authorized and directed to appropriate from funds of the sheriff's office not otherwise encumbered and

to draw a warrant in the sum of \$1.8 million, payable to Joseph Fatta, Jr., and Josephine Fatta, co-personal representatives of the Estate of Todd Fatta, deceased, as compensation for the death of Deputy Todd Fatta which was due to gross negligence by the Broward County Sheriff's Office.

Section 3. This award is 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 the death of Deputy Todd Fatta. The total amount paid for attorney's fees, lobbying fees, costs, and other similar expenses relating to this claim may not exceed 25 percent of the amount awarded under this act.

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

Approved by the Governor June 1, 2009.

Filed in Office Secretary of State June 1, 2009.