

CHAPTER 2016-269

Committee Substitute for House Bill No. 3525

An act for the relief of Melvin and Alma Colindres by the City of Miami; providing for an appropriation to compensate them for the wrongful death of their son, Kevin Colindres, which occurred as a result of the negligence of police officers of the City of Miami; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on December 12, 2006, Melvin and Alma Colindres called the City of Miami police department seeking assistance with their severely autistic and intellectually disabled son, Kevin Colindres, and

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

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

WHEREAS, the initial police officer who arrived at the Colindreses' house followed her training and the City of Miami's policies and procedures and approached Kevin Colindres in a quiet and nonthreatening manner and the situation remained stable, and

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Estate of Kevin Colindres and the City of Miami have entered into a settlement agreement in the amount of \$550,000, and the City of Miami has a private insurance policy to pay all claims in excess of \$500,000, 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 City of Miami is authorized and directed to appropriate from funds of the city not otherwise appropriated, as well as insurance, and to draw a warrant in the sum of \$550,000 payable to Melvin and Alma Colindres, as personal representatives of the Estate of Kevin Colindres, as compensation for the wrongful death of Kevin Colindres due to the negligence by police officers of the City of Miami.

Section 3. The amount paid by the City of Miami 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 Kevin Colindres' death. The total amount paid for attorney fees, lobbying fees, costs, and other similar expenses 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.

Approved by the Governor March 25, 2016.

Filed in Office Secretary of State March 25, 2016.