

HB 6009

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1 A bill to be entitled
2 An act for the relief of Patricia Ermini by the Lee
3 County Sheriff's Office; providing for an
4 appropriation to compensate her for injuries sustained
5 as a result of the negligence of the Lee County
6 Sheriff's Office; providing a limitation on the
7 payment of attorney fees; providing an effective date.
8

9 WHEREAS, on the evening of March 23, 2012, 71-year-old
10 Patricia Ermini spoke on the telephone with her daughter, Robin
11 Lacasse, who found that her mother was extremely upset in the
12 wake of her contentious and expensive divorce after a brief
13 marriage, and

14 WHEREAS, Ms. Lacasse suggested to her mother that she hang
15 up, take some time to calm down, and, afterward, call her back,
16 which her mother did; however, Ms. Lacasse missed her mother's
17 call, and

18 WHEREAS, when Ms. Ermini failed to reach her daughter, she
19 went to bed in her bedroom, which was being cooled by a window
20 unit air conditioner, and

21 WHEREAS, over the course of half an hour, Ms. Lacasse
22 repeatedly tried to return her mother's call and, when her
23 mother did not answer, called the Lee County Sheriff's Office
24 (LCSO) to request that a well-being check be conducted to
25 determine whether her mother was safe, and

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26 WHEREAS, shortly before 9 p.m., LCSO dispatch relayed the
27 call for a well-being check to Deputy Charlene Palmese, with
28 Deputies Richard Lisenbee and Robert Hamer also responding to
29 the call, conveying the following information to the deputies:
30 Ms. Ermini's name and age; that the request for a well-being
31 check had been initiated by Ms. Ermini's daughter, who did not
32 reside in Lee County and was afraid for her mother's life; that
33 Ms. Ermini was in the middle of a difficult divorce; that Ms.
34 Ermini had told her daughter that she "couldn't take it
35 anymore"; that Ms. Ermini's daughter was worried that Ms. Ermini
36 might commit suicide; that Ms. Ermini had never threatened
37 suicide before; that Ms. Ermini did not suffer from mental
38 illness; and that Ms. Ermini had a gun and might have been
39 drinking, and

40 WHEREAS, at the time of the call, Deputy Lisenbee was on
41 probation and undergoing remedial training, in part because of
42 his demonstrated inability to control scenes or suspects through
43 verbal commands, and he later told investigators that he could
44 not recall receiving training in the conduct of well-being
45 checks, and

46 WHEREAS, Deputy Palmese had completed her field training
47 only a few days prior to the call, during which she received
48 instruction on how to respond to a well-being check, but she
49 later told investigators that she could not recall whether, at
50 the time of the call, she had ever actually participated in a

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51 well-being check, and

52 WHEREAS, Deputy Hamer had been to many suicide threat
 53 calls, and he made it a practice to carry his rifle when it was
 54 known that a firearm was present on the premises where the
 55 subject of the call was located, and

56 WHEREAS, Deputy Lisenbee, who was the first to arrive at
 57 Ms. Ermini's home in response to the call, observed that there
 58 were no lights on in the home when he arrived and, after a brief
 59 exterior check, went to the front door, where he secured a
 60 screen door in the open position, knocked on the door, and
 61 announced, "Sheriff's Office," to no response, and

62 WHEREAS, Deputy Lisenbee determined that the front door was
 63 unlocked, opened the door, and again said, "Sheriff's Office,"
 64 followed by "Anyone here? Anyone home?" to no response, and

65 WHEREAS, Deputy Palmese was second to arrive, followed by
 66 Deputy Hamer, who, like the other deputies, parked out of view
 67 from inside the residence, and

68 WHEREAS, Deputy Hamer retrieved from the trunk of his
 69 vehicle his AR-15 rifle, which was equipped with a flashlight
 70 and a sighting device that allowed him to find his target more
 71 quickly and easily, and

72 WHEREAS, Deputy Hamer determined that the three deputies,
 73 all of whom were wearing dark green uniforms, should go into the
 74 residence to clear the house, and

75 WHEREAS, Deputy Hamer activated the flashlight on his rifle

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76 and Deputy Lisenbee announced "Sheriff's Office" once or twice
77 more before they entered the home, after which they proceeded to
78 move about the dark residence in silence as they cleared the
79 living room, finally arriving at the master bedroom, which had
80 double doors, both of which were closed, and

81 WHEREAS, without knocking or further announcing their
82 presence, Deputy Lisenbee opened the right-hand bedroom door and
83 shined his flashlight on a female, who appeared to be asleep on
84 the bed wearing only undergarments, and

85 WHEREAS, after Deputy Lisenbee entered the bedroom doorway,
86 he announced, "Sheriff's Office. Are you okay?" to which the
87 woman responded, "Who's there? Who's there?", and

88 WHEREAS, Deputy Lisenbee said, "Sheriff's Office. We're
89 here to make sure you're okay. Are you okay?", and

90 WHEREAS, Deputy Lisenbee said that, although the woman may
91 have sounded frightened, he did not temper his tone, nor did he
92 ever shine his flashlight on himself to allow Ms. Ermini to see
93 that he was, in fact, a uniformed officer, and

94 WHEREAS, Deputy Hamer said he heard Ms. Ermini say, "What
95 are you doing here? I have a gun," and

96 WHEREAS, Deputy Hamer later acknowledged that he didn't
97 know whether Ms. Ermini had heard or understood Deputy Lisenbee,
98 yet nonetheless, he turned off the flashlight on his gun, "took
99 the point," and stepped in front of Deputy Lisenbee because, he
100 said, he had more weaponry, was the senior officer on scene, and

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101 had significantly more gun range time, and

102 WHEREAS, terrified, Ms. Ermini told the person at the
103 doorway, whom she perceived as an intruder, to get out of her
104 house "because (she had) a gun" and, with that, jumped up from
105 the bed and hid behind the still-closed left-hand bedroom door,
106 and

107 WHEREAS, it remains unclear whether Ms. Ermini grabbed her
108 gun as she ran to shelter behind the door, and

109 WHEREAS, as Ms. Ermini tried to look around the bedroom
110 door, she was shot multiple times, with Deputy Hamer firing
111 seven rounds from his rifle through the closed bedroom door, and

112 WHEREAS, according to the chief crime scene investigator, a
113 bullet fired through the middle of the door struck Ms. Ermini in
114 her left leg, shattering her femur and causing her to fall
115 backward onto the floor; another bullet hit her in the upper
116 right arm, leaving a portion of her upper arm missing; and a
117 third bullet caused a graze wound across the back of her head,
118 and

119 WHEREAS, a wood splinter from the door lodged in her right
120 eye, temporarily blinding her in that eye, and

121 WHEREAS, it was less than two minutes from the time of
122 entry until Ms. Ermini was shot multiple times and fell to the
123 floor, and

124 WHEREAS, Deputy Hamer notified dispatch of the shooting and
125 continued to sweep the bedroom before finally delivering first

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126 aid to Ms. Ermini, whom he handcuffed because she was still
 127 alive and therefore posed a continuing threat to the deputies,
 128 and

129 WHEREAS, Lee County Emergency Medical Services (EMS) was
 130 dispatched at the same time as the officers and were waiting
 131 just two blocks away, which likely saved Ms. Ermini's life, and

132 WHEREAS, when the lead paramedic for EMS arrived, he
 133 determined that Ms. Ermini had life-threatening injuries to the
 134 front and back of her left leg and to the front and back of her
 135 right arm, and a laceration to the back of her head just above
 136 the neckline, and

137 WHEREAS, Ms. Ermini repeatedly asked the paramedic why she
 138 had been shot, who the intruders were, and why they were in her
 139 home, and

140 WHEREAS, Ms. Ermini's most grievous injury was the
 141 shattered femur in her left leg, and moving her caused her
 142 significant blood loss and excruciating pain, and

143 WHEREAS, Ms. Ermini was taken to Lee Memorial Hospital in
 144 critical condition and later admitted to the intensive care
 145 unit, and

146 WHEREAS, in addition to the gunshot wounds, Ms. Ermini had
 147 numerous wounds on her face from the wood splinters from the
 148 bedroom door, and

149 WHEREAS, an LCSO lieutenant who followed the ambulance to
 150 the hospital initially refused the emergency room doctor's

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151 request to remove the handcuffs from Ms. Ermini; emergency room
152 staff were told that Ms. Ermini "tried to kill a cop"; and Ms.
153 Ermini's family members were denied visitation, and

154 WHEREAS, doctors were able to save Ms. Ermini's eye with
155 surgery, but her vision has deteriorated since the incident, and

156 WHEREAS, Ms. Ermini required multiple surgeries to repair
157 her femur and address her wounds, including multiple skin grafts
158 on her shoulder, and

159 WHEREAS, after discharge, she suffered a severe septic
160 infection that caused her tremendous pain, and the pain
161 medications she was prescribed induced debilitating paranoia,
162 and

163 WHEREAS, on March 24, 2012, Sheriff Mike Scott told the
164 news media that Ms. Ermini shot at deputies who had responded to
165 a well-being check and that they returned fire, which directly
166 contradicts Deputy Hamer's statement, in which he indicated that
167 he shot first, and

168 WHEREAS, on March 29, 2012, Ms. Ermini was arrested in the
169 intensive care unit on two counts of aggravated assault on a law
170 enforcement officer, which the state attorney declined to
171 prosecute, and

172 WHEREAS, Ms. Ermini was an emergency room nurse in South
173 Florida for many years and had worked hand-in-hand with law
174 enforcement officers, no evidence was ever produced that she had
175 any animus toward law enforcement officers, and it is still

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176 | disputed that Ms. Ermini's weapon was discharged during the
177 | encounter, and

178 | WHEREAS, Ms. Ermini remained hospitalized for about 30 days
179 | and has never fully recovered from her injuries, and

180 | WHEREAS, Ms. Ermini continues to suffer from acute pain and
181 | fatigue and limited range of motion due to the gunshot wound to
182 | her upper arm, which impairs her ability to accomplish many of
183 | the activities of daily living, and she suffers from
184 | debilitating posttraumatic stress disorder, and

185 | WHEREAS, Ms. Ermini was forced to sell her home because she
186 | cannot afford in-home assistance, and

187 | WHEREAS, Deputy Lisenbee and Deputy Hamer were terminated
188 | by the LCSO shortly after the incident, the latter for "conduct
189 | unbecoming," and

190 | WHEREAS, in November 2015, Ms. Ermini filed suit against
191 | LCSO and the individual deputies involved in the call, and

192 | WHEREAS, on January 12, 2018, after a four-day trial, a
193 | jury that included a retired law enforcement officer awarded \$1
194 | million dollars in damages to Ms. Ermini for her pain and
195 | suffering, and

196 | WHEREAS, after apportionment of 75 percent of the fault to
197 | LCSO, a judgment was entered in Ms. Ermini's favor for \$750,000,
198 | and

199 | WHEREAS, ultimately, after numerous procedural attempts by
200 | LCSO to overturn the judgment, the United States Court of

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201 Appeals for the Eleventh Circuit affirmed the judgment of the
 202 United States District Court in Ms. Ermini's favor, and on or
 203 about December 9, 2019, the Florida Sheriffs Self Insurance
 204 Fund, on behalf of its insured, the Lee County Sheriff's Office,
 205 paid the statutory limit of \$200,000 in damages under section
 206 768.28, Florida Statutes, and

207 WHEREAS, this claim bill is for recovery of the excess
 208 judgment in the amount of \$550,000, plus interest and taxable
 209 trial costs and appellate costs awarded to Ms. Ermini in the
 210 amount of \$76,769.93, for a total claim of \$626,769.93, NOW,
 211 THEREFORE,

212

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

214

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

217 Section 2. The Florida Sheriffs Risk Management Fund is
 218 authorized and directed to appropriate from funds not otherwise
 219 encumbered and to draw a warrant in the sum of \$626,769.93
 220 payable to Patricia Ermini as compensation for injuries and
 221 damages sustained.

222 Section 3. The amount paid by the Florida Sheriffs Self
 223 Insurance Fund, on behalf of its insured, the Lee County
 224 Sheriff's Office, pursuant to s. 768.28, Florida Statutes, and
 225 the amount awarded under this act are intended to provide the

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226 | sole compensation for all present and future claims arising out
227 | of the factual situation described in this act which resulted in
228 | injuries and damages to Patricia Ermini. The total amount paid
229 | for attorney fees relating to this claim may not exceed 25
230 | percent of the total amount awarded under this act.

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