

1 A bill to be entitled

2 An act relating to the Law Enforcement Lethal Use of
3 Force Commission; creating s. 943.69, F.S.; creating
4 the commission; providing for membership of the
5 commission; specifying membership requirements;
6 providing term limits for members; authorizing per
7 diem for members; requiring law enforcement agencies
8 to report use-of-force incidents resulting in
9 fatalities to the commission; providing a definition;
10 requiring state attorneys and other prosecuting
11 entities to notify the commission of inquiries into
12 use-of-force fatalities and upon determining not to
13 pursue charges; requiring the commission to review
14 lethal use-of-force incidents; authorizing the
15 commission to refer incidents to the Attorney General
16 for consideration of prosecution; authorizing the
17 commission to subpoena documents and witnesses;
18 authorizing the Attorney General to bring criminal
19 charges; prohibiting actions of the commission that
20 could constitute double jeopardy; providing an
21 effective date.

22
23 WHEREAS, the Legislature finds that there exists a need to
24 ensure independent second-tier review of incidents in which
25 actions of law enforcement personnel result in a fatality in
26 order to continue strengthening the trust between law

27 enforcement agencies and the communities they protect, NOW,
 28 THEREFORE,

29
 30 Be It Enacted by the Legislature of the State of Florida:

31
 32 Section 1. Section 943.69, Florida Statutes, is created to
 33 read:

34 943.69 Law Enforcement Lethal Use of Force Commission.—

35 (1) MEMBERSHIP.—

36 (a) The Law Enforcement Lethal Use of Force Commission is
 37 hereby created. The commission shall consist of 15 members, who
 38 shall serve 4-year terms, appointed by the executive director of
 39 the Department of Law Enforcement.

40 (b) At least five members must not be current or former
 41 law enforcement officers or non-law-enforcement officer
 42 employees of the Department of Legal Affairs, the Department of
 43 Law Enforcement, the Department of Corrections, or the offices
 44 of a county sheriff or municipal police agency.

45 (c) No more than three members may be appointed from the
 46 same judicial circuit. Consideration should be given in
 47 appointment to geographic diversity.

48 (d) Membership on the commission does not disqualify a
 49 member from holding any other public office or being employed by
 50 a public entity; however, a sitting judge or a member of the
 51 Legislature may not be appointed.

52 (e) Members of the commission may receive per diem and

53 travel expenses as provided in s. 112.061.

54 (2) REPORTING REQUIREMENTS.—

55 (a) The head of a law enforcement agency shall ensure that
56 if a law enforcement officer uses force that results in the
57 death of another person, such incident shall be reported to the
58 commission within 24 hours. Further, the head of the department
59 or agency shall notify the commission within 7 days after the
60 completion of an investigation into the use of force and the
61 results of the investigation. As used in this paragraph, the
62 term "law enforcement agency" means an agency or unit of
63 government that has authority to employ or appoint law
64 enforcement officers as defined in s. 943.10(1).

65 (b) State attorneys and other prosecuting entities shall
66 notify the commission within 2 days after beginning an inquiry
67 into a law enforcement officer who used force that resulted in
68 the death of another person. State attorneys and other
69 prosecuting entities shall notify the commission within 2 days
70 after a decision not to pursue charges against such an officer.

71 (3) POWERS AND DUTIES.—

72 (a) The commission may, at the conclusion of an internal
73 investigation if one is made and upon receiving information from
74 a state attorney or other prosecuting entity that no charges
75 will be pursued, to review the incident and determine whether
76 the matter should be referred to the Attorney General for
77 consideration of prosecution if the use of force appears
78 unlawful.

79 (b) Such referrals to the Attorney General shall be made
 80 by a majority vote of the members of the commission.

81 (c) The commission may subpoena documents, including
 82 confidential documents, and require testimony.

83 (4) REFERRAL TO ATTORNEY GENERAL.—

84 (a) The Attorney General, to the extent the Attorney
 85 General is not currently empowered by law to do so, may bring
 86 appropriate criminal charges against a law enforcement officer
 87 subsequent to a referral from the commission for a violation of
 88 law.

89 (b) This subsection does not limit the independent powers
 90 and discretion of the Attorney General.

91 (5) LIMITATIONS ON REFERRAL.—

92 (a) This section does not to authorize the referral of a
 93 person for prosecution or the bringing of charges against a
 94 person who has been acquitted at trial for criminal charges
 95 arising out of the same incident.

96 (b) This section does not to authorize an action
 97 inconsistent with the prohibitions against double jeopardy in
 98 the State Constitution or the United States Constitution.

99 Section 2. This act shall take effect July 1, 2015.