

By Senator Bullard

39-01283-15

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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 the need exists for an  
24      independent, second-tier review of incidents in which actions of  
25      law enforcement personnel result in a fatality in order to  
26      continue strengthening the trust between law enforcement  
27      agencies and the communities they protect, NOW, THEREFORE,  
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29   Be It Enacted by the Legislature of the State of Florida:

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30  
31 Section 1. Section 943.69, Florida Statutes, is created to  
32 read:

33 943.69 Law Enforcement Lethal Use of Force Commission.—

34 (1) MEMBERSHIP.—

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

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

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

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

51 (e) Members of the commission may receive per diem and  
52 travel expenses as provided in s. 112.061.

53 (2) REPORTING REQUIREMENTS.—

54 (a) The head of a law enforcement agency shall ensure that,  
55 if a law enforcement officer uses force that results in the  
56 death of another person, such incident shall be reported to the  
57 commission within 24 hours. Further, the head of the department  
58 or agency shall notify the commission within 7 days after the

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59 completion of an investigation into the use of force of the  
60 results of the investigation. As used in this paragraph, the  
61 term "law enforcement agency" means an agency or unit of  
62 government that has authority to employ or appoint law  
63 enforcement officers as defined in s. 943.10(1).

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

70 (3) POWERS AND DUTIES.—

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

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

79 (c) The commission may subpoena documents, including  
80 confidential documents, and require testimony.

81 (4) REFERRAL TO ATTORNEY GENERAL.—

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

87 (b) This subsection does not limit the independent powers

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88 and discretion of the Attorney General.

89 (5) LIMITATIONS ON REFERRAL.-

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

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

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