

HB 727

2016

1 A bill to be entitled

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

21
22 WHEREAS, the Legislature finds that there exists a need to
23 ensure independent second-tier review of incidents in which
24 actions of law enforcement personnel result in a fatality in
25 order to continue strengthening the trust between law
26 enforcement agencies and the communities they protect, NOW,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 | THEREFORE,

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

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

33 | 943.69 Special Review Commission.—

34 | (1) MEMBERSHIP.—

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

39 | (b) At least five members must not be current or former
40 | law enforcement officers or non-law-enforcement officer
41 | employees of the Department of Legal Affairs, the Department of
42 | Law Enforcement, the Department of Corrections, or the offices
43 | of a 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 agency
58 shall notify the commission within 7 days after the completion
59 of an investigation into the use of force and the results of the
60 investigation. As used in this paragraph, the term "law
61 enforcement agency" means an agency or unit of government that
62 has authority to employ or appoint law enforcement officers as
63 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 officer is
70 made.

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
74 from a state attorney or other prosecuting entity that no
75 charges will be pursued, review the incident and determine
76 whether the matter should be referred to the Attorney General
77 for prosecution consideration 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 commission members.

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

83 (4) ATTORNEY GENERAL.—

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

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

90 (5) LIMITATIONS ON REFERRAL.—

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

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

98 Section 2. This act shall take effect July 1, 2016.