

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; requiring prosecutors to
9 notify the commission of inquiries into use-of-force
10 fatalities and determinations not to pursue charges;
11 authorizing the commission to review lethal use-of-
12 force incidents; authorizing the commission to refer
13 such incidents to the Attorney General for prosecution
14 consideration; authorizing the commission to subpoena
15 documents and witnesses; authorizing the Attorney
16 General to bring criminal charges; prohibiting actions
17 that could constitute double jeopardy; providing an
18 effective date.

19
20 WHEREAS, the Legislature finds that there exists a need to
21 ensure independent second-tier review of incidents in which
22 actions of law enforcement personnel result in a fatality in
23 order to continue strengthening the trust between law
24 enforcement agencies and the communities they protect, NOW,
25 THEREFORE,

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

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

943.69 Special Review Commission.—

(1) MEMBERSHIP.—

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

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

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

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

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

51 (2) REPORTING REQUIREMENTS.—

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

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

69 (3) POWERS AND DUTIES.—

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

76 unlawful.

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

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

81 (4) ATTORNEY GENERAL.—

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

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

88 (5) LIMITATIONS ON REFERRAL.—

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

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

96 Section 2. This act shall take effect July 1, 2017.