

1 AN ACT relating to the investigation of a shooting or deadly incident by a law
2 enforcement officer.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 5 of this Act:*

7 *(1) "Deadly incident" means a shooting by a law enforcement officer that results in*
8 *the death of another individual or any incident that results in the death of an*
9 *individual while in the custody of law enforcement or while being questioned or*
10 *actively pursued by law enforcement;*

11 *(2) "Employing law enforcement agency" means the law enforcement agency that*
12 *employs any law enforcement officer or officers involved in a shooting of an*
13 *individual or a deadly incident;*

14 *(3) "Kentucky State Police Critical Incident Response Team" means a unit of the*
15 *Kentucky State Police responsible for investigating a shooting of an individual by*
16 *a law enforcement officer or officers or a deadly incident;*

17 *(4) "Officer Shooting Review Board" or "board" means the board established in*
18 *Section 2 of this Act that is authorized to investigate the shooting of an individual*
19 *by a law enforcement officer or officers or a deadly incident; and*

20 *(5) "Primary investigation" means the investigation conducted by the board.*

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO
22 READ AS FOLLOWS:

23 *(1) The Officer Shooting Review Board is hereby established and administratively*
24 *attached to the Office of the Attorney General. The board shall investigate any*
25 *shooting of an individual by a law enforcement officer or officers and any deadly*
26 *incident. Notwithstanding any statute to the contrary, employing law enforcement*
27 *agencies shall be prohibited from conducting a criminal investigation into the*

1 shooting or incident until the conclusion of the board's investigation as outlined
2 in Section 5 of this Act.

3 (2) The board shall consist of seven (7) members appointed by the Attorney General
4 for a term of four (4) years and shall include:

5 (a) A liaison from the Justice and Public Safety Cabinet;

6 (b) A retired judge who has served as a District Court or Circuit Court Judge
7 within the Commonwealth for at least ten (10) years;

8 (c) A retired chief of police, sheriff, assistant chief of police, or deputy sheriff
9 from any county or municipality within the Commonwealth of Kentucky;

10 (d) An assistant deputy Attorney General;

11 (e) A professor or researcher affiliated with a Kentucky university or college
12 who has expertise in the field of criminal law or criminal justice;

13 (f) A representative of a nonprofit organization whose mission is focused on
14 social justice or civil rights advocacy;

15 (g) A former Commonwealth's attorney or assistant Commonwealth's attorney
16 who served in that capacity for at least five (5) years; and

17 (h) A private criminal defense attorney or a former public defender who served
18 in that capacity for at least five (5) years.

19 (3) The board shall meet as necessary to perform its duties as established under
20 Sections 1 to 5 of this Act.

21 (4) If any member of the board is currently employed or has been employed by the
22 agency employing any law enforcement officer who is subject to a current
23 investigation, the member shall recuse himself or herself from the investigation.

24 (5) Any vacancy that may occur in the membership of the board shall be filled by the
25 Attorney General.

26 (6) The members of the board shall serve without compensation but shall be
27 reimbursed for necessary travel expenses.

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO
2 READ AS FOLLOWS:

3 (1) Except as provided in subsection (2) of this section, the Kentucky State Police
4 Critical Incident Response Team shall be responsible for the initial investigation
5 of a shooting of an individual by a law enforcement officer or officers or a deadly
6 incident under investigation by the board.

7 (2) If a shooting of an individual by a law enforcement officer or officers or a deadly
8 incident involves one (1) or more Kentucky State Police officers, then the law
9 enforcement agency with jurisdiction over the location of the shooting or deadly
10 incident shall be responsible for the initial investigation.

11 (3) The Kentucky State Police Critical Incident Response Team shall establish a
12 written policy for handling any investigation of a shooting of an individual by a
13 law enforcement officer or officers or a deadly incident. The policy shall:

14 (a) Be subject to approval by the board; and

15 (b) Include evidence-based policies.

16 A copy of the approved policy shall be filed with the Kentucky Law Enforcement
17 Council established in KRS 15.315 and made available to the public pursuant to
18 KRS 61.870 to 61.884.

19 (4) If the shooting of an individual by an officer or officers or a deadly incident is
20 traffic-related, the policies of the response team and all consenting authorized
21 law enforcement agencies shall require the investigative team to use a crash
22 reconstruction unit from an agency that does not employ a law enforcement
23 officer involved in the death being investigated. The policy shall give preference
24 to using a unit from the Kentucky State Police.

25 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO
26 READ AS FOLLOWS:

27 (1) Following any shooting of an individual by a law enforcement officer or officers

1 or any deadly incident within the Commonwealth, the following protocol shall be
2 implemented:

3 (a) The initial investigation shall be conducted by the Kentucky State Police
4 Critical Incident Response Team or other law enforcement agency as
5 provided in Section 3 of this Act or in subsections (5) and (6) of this section;

6 (b) The primary investigation shall be overseen by the board; and

7 (c) The board shall provide its final conclusion and recommendations to the
8 Commonwealth's attorney of the jurisdiction in which the shooting of an
9 individual by a law enforcement officer or officers or deadly incident took
10 place.

11 (2) While conducting the initial investigation, the Kentucky State Police Critical
12 Incident Response Team or any authorized law enforcement agency may perform
13 all investigative protocols or procedures identified within the scope of the written
14 policy established under Section 3 of this Act.

15 (3) Regardless of whether a policy or procedure is identified in the written policy, the
16 response team or authorized law enforcement agency shall perform the following
17 if necessary to the investigation:

18 (a) Acquire and preserve the original body camera files for all law enforcement
19 officers who were present at the scene at the time of a shooting of an
20 individual by an officer or officers or deadly incident;

21 (b) Secure all of the officers' vehicles and all items therein;

22 (c) Secure the involved weapons;

23 (d) Acquire and secure all video and audio files from all sources that could
24 potentially have evidence related to the incident in question;

25 (e) Administer drug and alcohol testing to all officers present at the time of the
26 shooting or the deadly incident;

27 (f) Map and photograph the scene;

- 1 (g) Obtain statements and contact information for all witnesses; and
2 (h) Gather, log, and secure evidence.
- 3 (4) These procedures and protocols shall be performed as part of the initial
4 investigation, unless the response team determines either that it is impossible to
5 do so or that doing so would pose an extraordinary burden as explained in
6 writing by the Kentucky State Police Critical Incident Response Team.
- 7 (5) During the course of the initial investigation, the response team may assign a
8 consenting authorized law enforcement agency to assist with the initial
9 investigation, if the following conditions are present:
- 10 (a) The response team reasonably believes that it is unable to respond to the
11 scene of the shooting or the deadly incident in a timely manner to
12 adequately perform initial investigative tasks; and
- 13 (b) The response team reasonably believes that it lacks adequate personnel to
14 exclusively perform the initial investigation.
- 15 Each consenting authorized law enforcement agency shall implement a written
16 policy identical to the written policy required in Section 3 of this Act. Each policy
17 is subject to the review and approval of the board.
- 18 (6) Upon conclusion of the initial investigation, the materials gathered pursuant to
19 this section by the Kentucky State Police Critical Response Team or any
20 consenting law enforcement agencies shall be submitted to the board, unless
21 requested earlier by the board.
- 22 (7) The board shall review the materials from the initial investigation and shall be
23 provided an investigative report by the Kentucky State Police Critical Response
24 Team or any consenting law enforcement agencies. When the board receives a
25 report from the response team, it shall review the report and evidence to
26 determine if it addresses all aspects of the incident in question. The board may
27 request more information, clarification, or testimony from members of the law

1 enforcement agency that prepared the report or otherwise participated in the
2 initial investigation.

3 (8) The board may appoint an independent investigator to oversee the investigation
4 or may request that additional investigation work be done by the response team,
5 in which case the response team shall make a good-faith effort to comply with the
6 board's request in a timely manner.

7 (9) Upon the conclusion of the investigation, the board shall submit a report to the
8 Commonwealth's attorney of the jurisdiction in which the shooting of an
9 individual or the deadly incident being investigated occurred. The report shall
10 include the board's investigatory conclusions and the opinion of each board
11 member as to whether the officer's or officers' actions were justified in the
12 shooting of the individual or the deadly incident.

13 (10) If after reviewing the report provided by the board, the Commonwealth's attorney
14 of the jurisdiction in which the shooting of an individual by a law enforcement
15 officer or officers or a deadly incident took place declines to prosecute the law
16 enforcement officer or officers involved, the Attorney General may make a
17 determination to prosecute the officer or officers involved in the shooting or the
18 deadly incident.

19 (11) Upon conclusion of the board's investigation and submission of the report to the
20 Commonwealth's attorney, the Attorney General shall release the report and any
21 accompanying files, excluding any information contained in the report and files
22 that are kept confidential pursuant to KRS 61.870 to 61.884.

23 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO
24 READ AS FOLLOWS:

25 An employing law enforcement agency shall not initiate its internal investigation into
26 the shooting of an individual by a law enforcement officer or officers or a deadly
27 incident until all of the following have been completed:

- 1 (1) Written confirmation from the response team that its initial investigation is
2 complete;
- 3 (2) Publication of the response team's investigative conclusions; and
- 4 (3) The conclusion of the criminal prosecution investigation, which shall be
5 established by written confirmation from the Commonwealth's attorney of the
6 jurisdiction in which the shooting of an individual by a law enforcement officer
7 or officers or deadly incident took place or from the Attorney General if the
8 Commonwealth's attorney declines to prosecute.