

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2021 REGULAR SESSION
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Amend printed copy of **SB 245**

On page 3, after line 19, insert the following:

"➔SECTION 2. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of investigating and reviewing the policies, procedures, and operations of an urban-county local government’s police department, and investigating complaints involving any member of the police in his or her interactions with the public, the urban-county local government may establish, by ordinance, governmental bodies to operate independently of the police department. Those bodies shall include but not be limited to:

(a) An investigatory office to be led by an individual appointed by the mayor; and

(b) A board made up of residents of the county containing the urban-county local government to provide oversight to the leader of the investigatory office.

(2) For each governmental body established under subsection (1) of this section, the ordinance shall include but not be limited to direction regarding each body’s powers, duties, membership, internal protocols, and reporting requirements. The governmental bodies may adopt bylaws, policies, and procedures to facilitate their operations that are not inconsistent with the direction outlined in the ordinance.

(3) (a) On behalf of the board established in subsection (1)(b) of this section, the appointed leader of the investigatory office established in subsection (1)(a) of this

Amendment No. SFA 1

Rep. Sen. Reginald Thomas

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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- section shall have the power to administer oaths and by subpoena which has been reviewed and approved by an urban-county local government committee or other local body designated by the legislative body of the urban-county local government for that purpose to compel the testimony of witnesses or the production of documents, books, papers, or other records.
- (b) Subpoenas issued under this subsection shall be served in the same manner as subpoenas for witnesses in civil cases.
- (c) In case of failure or refusal to obey a subpoena, the appointed leader of the investigatory office may petition the appropriate Circuit Court to compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court.
- (4) (a) Notwithstanding any provision of law to the contrary, when the civilian board established in subsection (1)(b) of this section reviews, discusses, or is presented with information on potential or ongoing investigations conducted by the investigatory office established in subsection (1)(a) of this section, those portions of the board meetings may be in a closed session, subject to the requirements of KRS 61.815(1). A closed session shall only occur following an open session and, at the conclusion of the closed session, the board shall immediately convene an open session and provide a summary of what occurred during the closed session.
- (b) 1. Information and record copies that are confidential under state or federal law and are provided to any board or investigatory office established under subsection (1) of this section by any entity shall not become the information and records of the board or the office, and shall not lose their confidentiality by virtue of the access of the board or investigatory office to the information and records.

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2. Any original information and records used to generate information and record copies provided to a governmental body established under subsection (1) of this section by any agency shall be maintained by that agency in accordance with state and federal law and shall be subject to KRS 61.870 to 61.884. All open records requests for those materials shall be made to the appropriate agency, and not to the bodies established under subsection (1) of this section, or any of the board members. Information and record copies provided to the bodies established under subsection (1) of this section shall be exempt from KRS 61.870 to 61.884 and, at the conclusion of the investigation, all copies of information and records provided shall be destroyed by the investigatory office.
3. Nothing in this paragraph shall be construed to exempt records generated by the bodies established in subsection (1) of this section from KRS 61.870 to 61.884, or from the records retention provisions under KRS 171.420 to 171.740, unless the records are otherwise exempt under any of those provisions or other provisions of law.
- (c) The proceedings, records, opinions, and deliberations of bodies established in subsection (1) of this section shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the bodies."; and
- Re-number subsequent section accordingly.