

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **HB 314/SCS 1**

On page 21, after line 18, by inserting:

"➔SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ
AS FOLLOWS:

(1) For the purposes of investigating and reviewing the policies, procedures, and operations of a consolidated local government's police department, and investigating complaints involving any member of the police in his or her interactions with the public, the consolidated local government may establish, by ordinance, governmental bodies to operate independently of the police department. Those bodies shall include but are not 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 consolidated 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 consolidated local government shall establish by ordinance the body's powers, duties, membership, internal protocols, and reporting requirements. A governmental body may adopt bylaws, policies, and procedures to facilitate its operations that are not inconsistent with the ordinance.

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

Amendment No. SFA

Rep. Sen. Morgan McGarvey

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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- appointed leader of the investigatory office established in subsection (1)(a) of this section shall have the power to administer oaths and, by subpoena issued by the Circuit Court of the county wherein the local board is authorized, to act 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.

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 a governmental body established under subsection (1) of this section, or any of its board members. Information and record copies provided to a governmental body 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 a governmental body 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 a governmental body 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 governmental body.
- (d) In any proceeding before a governmental body established pursuant to subsection (1) of this section:

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1. Testimony shall be subject to any relevant statutes concerning privacy;
2. The provisions of KRS 15.520 shall apply to any peace officer not employed by a consolidated local government who is compelled to testify. The provisions of KRS 67C.326 shall apply to any peace officer employed by a consolidated local government who is compelled to testify;
3. Any person who is represented by a recognized collective bargaining unit may have a representative of the collective bargaining unit present;
4. Any person compelled to testify shall be deemed to be subject to the Fifth and Fourteenth Amendments to the United States Constitution and may have legal counsel of his or her choice present;
5. For a peace officer who is the subject of an investigation, any testimony compelled in response to a subpoena shall be deemed coerced for the purposes of attaching self-incrimination protections;
6. Any testimony subject to KRS 61.810 shall only be taken in closed session; and
7. The right to privacy or the requirement that testimony be taken in closed session may be waived by the person or entity being subpoenaed or compelled to testify.

→Section 10. Whereas the creation of a new citizen review and oversight board and an investigatory office is important and faces time-sensitive issues to promote police accountability, enhance transparency and trust, protect the rights of residents, and reduce complaints, an emergency is declared to exist, and Section 9 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."