

1 AN ACT relating to oversight of the police for a consolidated local government and
2 declaring an emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) For the purposes of investigating and reviewing the policies, procedures, and*
7 *operations of a consolidated local government's police department, and*
8 *investigating complaints involving any member of the police in his or her*
9 *interactions with the public, the consolidated local government may establish, by*
10 *ordinance, governmental bodies to operate independently of the police*
11 *department. Those bodies shall include but not be limited to:*

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

13 *and*

14 *(b) A board made up of residents of the county containing the consolidated*
15 *local government to provide oversight to the leader of the investigatory*
16 *office.*

17 *(2) For each governmental body established under subsection (1) of this section, the*
18 *ordinance shall include but not be limited to direction regarding each body's*
19 *powers, duties, membership, internal protocols, and reporting requirements. A*
20 *governmental body may adopt bylaws, policies, and procedures to facilitate its*
21 *operations that are not inconsistent with the direction outlined in the ordinance.*

22 *(3) (a) On behalf of the board established in subsection (1)(b) of this section, the*
23 *appointed leader of the investigatory office established in subsection (1)(a)*
24 *of this section shall have the power to administer oaths and, by subpoena*
25 *issued by the Circuit Court of the county wherein the local board is*
26 *authorized, to act to compel the testimony of witnesses or the production of*
27 *documents, books, papers, or other records.*

1 **(b) Subpoenas issued under this subsection shall be served in the same manner**
2 **as subpoenas for witnesses in civil cases.**

3 **(c) In case of failure or refusal to obey a subpoena, the appointed leader of the**
4 **investigatory office may petition the appropriate Circuit Court to compel**
5 **obedience by proceedings for contempt as in the case of disobedience of a**
6 **subpoena issued from the Circuit Court.**

7 **(4) (a) Notwithstanding any provision of law to the contrary, when the civilian**
8 **board established in subsection (1)(b) of this section reviews, discusses, or is**
9 **presented with information on potential or ongoing investigations**
10 **conducted by the investigatory office established in subsection (1)(a) of this**
11 **section, those portions of the board meetings may be in a closed session,**
12 **subject to the requirements of KRS 61.815(1). A closed session shall only**
13 **occur following an open session and, at the conclusion of the closed**
14 **session, the board shall immediately convene an open session and provide a**
15 **summary of what occurred during the closed session.**

16 **(b) 1. Information and record copies that are confidential under state or**
17 **federal law and are provided to any board or investigatory office**
18 **established under subsection (1) of this section by any entity shall not**
19 **become the information and records of the board or the office, and**
20 **shall not lose their confidentiality by virtue of the access of the board**
21 **or investigatory office to the information and records.**

22 **2. Any original information and records used to generate information**
23 **and record copies provided to a governmental body established under**
24 **subsection (1) of this section by any agency shall be maintained by**
25 **that agency in accordance with state and federal law and shall be**
26 **subject to KRS 61.870 to 61.884. All open records requests for those**
27 **materials shall be made to the appropriate agency and not to a**

1 governmental body established under subsection (1) of this section, or
2 any of its board members. Information and record copies provided to a
3 governmental body established under subsection (1) of this section
4 shall be exempt from KRS 61.870 to 61.884 and, at the conclusion of
5 the investigation, all copies of information and records provided shall
6 be destroyed by the investigatory office.

7 3. Nothing in this paragraph shall be construed to exempt records
8 generated by a governmental body established in subsection (1) of this
9 section from KRS 61.870 to 61.884, or from the records retention
10 provisions under KRS 171.420 to 171.740, unless the records are
11 otherwise exempt under any of those provisions or other provisions of
12 law.

13 (c) The proceedings, records, opinions, and deliberations of governmental body
14 established in subsection (1) of this section shall be privileged and shall not
15 be subject to discovery, subpoena, or introduction into evidence in any civil
16 action in any manner that would directly or indirectly identify specific
17 persons or cases reviewed. Nothing in this subsection shall be construed to
18 restrict or limit the right to discover or use in any civil action any evidence
19 that is discoverable independent of the proceedings of governmental body.

20 (d) In any proceeding before a governmental body established pursuant to
21 subsection (1) of this section:

22 1. Testimony shall be subject to any relevant statutes concerning privacy;

23 2. The provisions of KRS 15.520 shall apply to any peace officer not
24 employed by a consolidated local government who is compelled to
25 testify. The provisions of KRS 67C.326 shall apply to any peace officer
26 employed by a consolidated local government who is compelled to
27 testify;

- 1 3. Any person who is represented by a recognized collective bargaining
2 unit may have a representative of the collective bargaining unit
3 present;
- 4 4. Any person compelled to testify shall be deemed to be subject to the
5 Fifth and Fourteenth Amendments to the United States Constitution
6 and may have legal counsel of his or her choice present;
- 7 5. For a peace officer who is the subject of an investigation, any
8 testimony compelled in response to a subpoena shall be deemed
9 coerced for the purposes of attaching self-incrimination protections;
- 10 6. Any testimony subject to KRS 61.810 shall only be taken in closed
11 session; and
- 12 7. The right to privacy or the requirement that testimony be taken in
13 closed session may be waived by the person or entity being subpoenaed
14 or compelled to testify.

15 ➔Section 2. Whereas the creation of a new citizen review and oversight board and
16 an investigatory office is important and faces time-sensitive issues to promote police
17 accountability, enhance transparency and trust, protect the rights of residents, and reduce
18 complaints, an emergency is declared to exist, and this Act takes effect upon its passage
19 and approval by the Governor or upon its otherwise becoming a law.