COMMITTEE REPORT

February 17, 2016

**S. 649**

Introduced by Senators Malloy and Williams

S. Printed 2/17/16--S.

Read the first time April 14, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 649) to amend Chapter 1, Title 23 of the 1976 Code, relating to general provisions concerning law enforcement, to provide that each law enforcement agency shall have a written policy, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑250. (A) For purposes of this section:

(1) ‘Law enforcement agency’ means a state, county, municipal, or local law enforcement authority.

(2) ‘Law enforcement officer’ means an appointed officer or employee hired by and regularly on the payroll of the State or the State’s political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

(3) ‘Officer-involved death’ means the death of a person that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of the officer’s law enforcement duties.

(4) ‘Victim’ means a person’s spouse, parent, child or lawful representative of a victim who is:

(a) deceased;

(b) a minor;

(c) incompetent; or

(d) physically or psychologically incapacitated.

(B)(1) A law enforcement agency shall have a written policy regarding the investigation of officer‑involved deaths. The policy must require an investigation conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death;

(2) The policy may allow an internal investigation into the officer-involved death if the internal investigation does not interfere with the investigation conducted pursuant to subsection (B).

(C) The investigators conducting the investigation pursuant to subsection (B) shall, in an expeditious manner, provide a complete report to the solicitor of the county in which the officer-involved death occurred.

(D) If the solicitor determines that no basis exists to prosecute the law enforcement officer involved in the officer-involved death, the investigators conducting the investigation may release the report pursuant to the Freedom of Information Act.

(E) A victim of an officer‑involved death must be notified of the victim’s rights pursuant to Article 1, Section 24 of the South Carolina Constitution.

(F) When a motor vehicle or motorcycle of a law enforcement agency is involved in a traffic collision, Section 56‑5‑765 shall govern the investigation and disposition of the matter rather than this section.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

GERALD MALLOY for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

All state agencies surveyed indicate this bill would have no expenditure impact on the general fund, federal funds, or other funds. This bill is expected to have a minimal impact on municipal governments. Since our office received no responses from county governments, we cannot determine the expenditure impact on county governments.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill amends Chapter 1 of Title 23 and requires law enforcement agencies to have a written policy regarding the investigation of officer-involved deaths. Such policies will define necessary terms and include provisions for reports and notices.

The South Carolina Senate, House of Representatives, State Law Enforcement Division, Department of Probation, Parole and Pardon Services, Department of Public Safety, Department of Corrections, Department of Juvenile Justice, and Department of Natural Resources indicate that this bill will have no expenditure impact on the general fund, federal funds, or other funds.

**Local Expenditure**

The Revenue and Fiscal Affairs Office contacted the Municipal Association of South Carolina and forty-six county governments regarding the expenditure impact of this bill. The municipal association indicates this bill will have minimal impact on municipal governments. Since our office received no responses from county governments, we cannot determine the expenditure impact on county governments.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 23 OF THE 1976 CODE, RELATING TO GENERAL PROVISIONS CONCERNING LAW ENFORCEMENT, TO PROVIDE THAT EACH LAW ENFORCEMENT AGENCY SHALL HAVE A WRITTEN POLICY REGARDING THE INVESTIGATION OF OFFICER‑INVOLVED DEATHS, TO PROVIDE FOR THE CONTENTS OF THE POLICY, TO PROVIDE FOR INVESTIGATIONS, TO PROVIDE FOR REPORTS, TO PROVIDE FOR THE RELEASE OF THE REPORT IF PROSECUTION IS NOT PURSUED, TO PROVIDE FOR NOTICE OF VICTIM’S RIGHTS, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑240. (A) As used in this section:

(1) ‘Law enforcement agency’ means any state, county, municipal, or local law enforcement authority.

(2) ‘Law enforcement officer’ means an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

(3) ‘Officer−involved death’ means the death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of his or her law enforcement duties.

(4) ‘Victim’ means an individual’s spouse, parent, child or lawful representative of a victim who is:

(a) deceased;

(b) a minor;

(c) incompetent; or

(d) physically or psychologically incapacitated.

(B)(1) Each law enforcement agency shall have a written policy regarding the investigation of officer‑involved deaths. The policy must require an investigation conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer−involved death;

(2) Each policy may allow an internal investigation into the officer−involved death if the internal investigation does not interfere with the investigation conducted under subsection (B).

(C) The investigators conducting the investigation under subsection (B) shall, in an expeditious manner, provide a complete report to the solicitor of the county in which the officer−involved death occurred.

(D) If the solicitor determines there is no basis to prosecute the law enforcement officer involved in the officer−involved death, the investigators conducting the investigation shall publicly release the report.

(E) A victim of an officer‑involved death shall be notified of his or her rights pursuant to Article 1, Section 24 of the South Carolina Constitution.

(F) When a motor vehicle or motorcycle of a law enforcement agency is involved in a traffic collision, the provisions contained in Section 56‑5‑765 shall govern the investigation and disposition of the matter rather than the provisions contained in this section.”

SECTION 2. This act takes effect upon approval by the Governor

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