

SENATE BILL 854

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7 and Title 38, Chapter 8, relative to law enforcement investigations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 8, Part 3, is amended by adding the following language as a new section:

(a) In this section:

(1) "Law enforcement agency" means the sheriff's office of any county, the police department of any city or municipality, or the Tennessee highway patrol;

(2) "Law enforcement officer" means a sworn officer of a law enforcement agency; and

(3) "Officer-involved death" means a 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 the officer's law enforcement duties.

(b) Each law enforcement agency shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by the law enforcement agency.

(c)

(1) Each policy under subsection (b) shall require an investigation conducted by at least two (2) disinterested investigators, one (1) of whom shall

be designated 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) If the officer-involved death being investigated is traffic related, the policy under subsection (b) shall require the investigation to use a crash reconstruction unit from a law enforcement agency that does not employ a law enforcement officer involved in the officer-involved death being investigated; provided, the Tennessee highway patrol policy may allow an investigation involving a law enforcement officer employed by the Tennessee highway patrol to use a crash reconstruction unit from the Tennessee highway patrol.

(3) Each policy under subsection (b) may allow an internal investigation into the officer-involved death; provided, the internal investigation is not in lieu of and does not interfere with the investigation conducted under subdivision (c)(1).

(d) Compensation for participation in an investigation under subdivision (c)(1) may be determined in a manner consistent with agreements between law enforcement agencies.

(e)

(1) The investigators conducting the investigation under subdivision (c)(1) shall provide a complete report to the district attorney of the county in which the officer-involved death occurred.

(2) If the district attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the report created pursuant to subdivision (e)(1) shall be a public record and open to inspection unless disclosure is otherwise prohibited by statute; provided, that § 10-7-504(a)(2) shall not prohibit the disclosure of a report prepared pursuant to subdivision (e)(1).

(f) Notwithstanding § 38-8-309, this section applies to all law enforcement agencies.

(g) Nothing in this section shall limit the rights of a police officer provided by §§
38-8-301–38-8-310.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to officer-involved deaths occurring on or after that date.