



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 380

131st General Assembly
(As Introduced)

Reps. Dever and Reece, Amstutz, Boyd, Kuhns, Buchy, Thompson, Conditt, Ashford, Sykes, K. Smith, Rezabek, Patterson, Burkley, Schaffer, Sheehy, Ramos, Antonio, Howse

BILL SUMMARY

- Requires each law enforcement agency to adopt a written policy regarding the investigation of deaths directly resulting from the use of a firearm by a law enforcement officer serving the agency and requiring a criminal investigation of each such death.
- Requires the formation of a pool of investigators consisting of law enforcement officers designated by any law enforcement agency and maintained by the Attorney General (AG), and requires minimum standards for investigators of officer-involved deaths to be specified by the Peace Officer Training Commission.
- Requires an investigation of an officer-involved death to be conducted by a panel of three or more investigators, including a lead investigator employed by the agency, by the agency's mutual-aid partner, or by the Bureau of Criminal Identification and Investigation, and two or more investigators referred by the AG.
- Specifies that none of the investigators referred by the AG can serve an agency that is served by the officer involved in the death.
- Generally provides that the investigators conducting an investigation have the same powers as law enforcement officers of the agency served by the officer involved in the death, except that they may arrest only pursuant to an arrest warrant.
- Requires the investigators to provide a complete report of their findings to the county prosecuting attorney and to each law enforcement agency served by any officer involved in the death.

- If the prosecuting attorney determines that there is no basis for a prosecution or if a grand jury returns a "no bill," generally provides that the report is a public record, and requires the agencies to immediately release the report to the public.
- Requires the investigatory panel, as soon as practicable after initial contact with the deceased individual's family members, to promptly inform them of contact information for the office of the prosecutor handling the case.
- Applies the bill's provisions with respect to officer-involved deaths occurring 60 days or more after the bill's effective date.

CONTENT AND OPERATION

Written policy on investigation of law enforcement officer-involved deaths

Not later than 60 days after its effective date, the bill requires each law enforcement agency to adopt a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer who serves the agency.¹ The policy must require a criminal investigation of each officer-involved death involving a law enforcement officer serving the agency.² The policy also may allow an internal administrative investigation into such officer-involved death if the investigation does not interfere with the criminal investigation described below.³

The bill defines several terms for its purposes. As used in the bill, an "officer-involved death" means a death of an individual that results directly from the use of a firearm by a law enforcement officer while the officer is on duty or is off duty but performing activities that are within the scope of the officer's law enforcement duties. A "law enforcement officer" is any person so identified under the Criminal Code who is employed or appointed for the purpose of detecting and preventing crime and enforcing laws or ordinances, and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce. And a "law enforcement agency" means a governmental unit of one or more law enforcement officers who are employed or appointed full time for the purpose of preventing and detecting crime and enforcing laws or ordinances, and are authorized to make arrests for crimes while acting within the scope of their authority.⁴

¹ R.C. 2901.45(B).

² R.C. 2901.45(D).

³ R.C. 2901.45(E).

⁴ R.C. 2901.45(A).

Criminal investigation

Pool of potential investigators; training

Not later than 60 days after the bill's effective date, any law enforcement agency may designate one or more of its law enforcement officers as the agency's representative or representatives in the pool of potential investigators of officer-involved deaths maintained by the Attorney General (AG). The agency must notify the AG in writing of the name and contact information for the officer or officers so designated. The agency may change the designated officer or officers at any time and must notify the AG of the change. No officer may be designated as the agency's representative unless the officer satisfies the minimum standards for investigating officer-involved deaths specified by the Ohio Peace Officer Training Commission, which is required to specify those standards not later than 30 days after the bill's effective date.⁵

Attorney General's database

The AG must maintain a database that contains the names of, contact information for, and law enforcement agency served by each officer designated for the pool of potential investigators. The database must indicate the Department of Transportation (ODOT) district, as those districts exist on the bill's effective date, within which each officer in the pool is employed.⁶

Pre-investigation

Before the commencement of any criminal investigation, the agency must request the AG to finally refer to the agency investigators from the AG's database. Upon receipt of such request, the AG must randomly select from the pool the names of two or more law enforcement officers, at least two of whom are employed within the ODOT district in which the officer-involved death occurred, to serve as investigators regarding the death. The AG must contact the officers and inform them of the details of the investigation. An officer who is contacted may decline service as an investigator. If a contacted officer declines, the AG must randomly select the name of a replacement officer, and the above provisions apply regarding the replacement. The AG must continue this process until the desired number of officers is obtained to serve as investigators, the AG must finally refer those officers to the agency, and those referred officers must serve as investigators.⁷

⁵ R.C. 2901.45(C) and (H).

⁶ R.C. 2901.45(C).

⁷ R.C. 2901.45(D).



Panel of investigators; powers

The criminal investigation must be conducted by a panel of three or more investigators, including one employed by the agency or by a mutual-aid partner of the agency or, if the agency so elects, by the Bureau of Criminal Identification and Investigation (BCII), and two or more investigators finally referred by the AG.⁸ A "mutual-aid partner" means a law enforcement agency that has entered into a mutual aid agreement with another law enforcement agency.⁹

The lead investigator must be the investigator employed by the agency served by the officer involved in the death, by that agency's mutual-aid partner, or by BCII and serving at the agency's request. None of the investigators referred by the AG can serve an agency that is served by an officer involved in the death. Upon the AG's final referral, the referred investigators and the lead investigator must investigate the officer-involved death. Those investigators have the same powers and authority while conducting the investigation as law enforcement officers of the agency or agencies served by the officer involved in the death, except that investigators referred by the AG or employed by BCII have the power to arrest only pursuant to an arrest warrant.¹⁰

Compensation of investigators

Compensation for participation in a criminal investigation may be determined in a manner consistent with mutual aid agreements, if any exist between the involved law enforcement agencies.¹¹

Report of investigation findings

Not later than 30 days after completion of the investigation, the investigators must provide a complete report of their findings to the prosecuting attorney of the county in which the officer-involved death occurred and to each law enforcement agency served by any law enforcement officer involved in the death. If the prosecuting attorney determines that there is no basis to prosecute any officer involved in the death or if a grand jury returns a "no bill" regarding each officer involved in the death, except for information in the report that is a confidential law enforcement investigatory record or is otherwise excepted from the definition of public record in the Public Records Law,

⁸ R.C. 2901.45(D).

⁹ R.C. 2901.45(A).

¹⁰ R.C. 2901.45(D).

¹¹ R.C. 2901.45(F).



the report is a public record and the law enforcement agencies immediately must release the report to the general public.¹²

A "no bill" means a report of a grand jury that an indictment is not found against a person who has been held to answer before the grand jury for the commission of an offense.¹³

Notification to family members

The bill provides that as soon as practicable after its initial contact with the members of the family of an individual who experienced a law enforcement officer-involved death, the investigatory panel promptly must inform the family members of contact information for the office of the prosecutor who is handling the case.¹⁴ The information must be provided to the family members by any means reasonably calculated to promptly provide it. Except when a provision requires that information is to be given to a victim or family members in a specific manner, a notice under current law may be oral or written.¹⁵ If the investigatory panel provides the information by mail or telephone, it must be provided at the address or telephone numbers provided to the panel by the family members.¹⁶ Under existing law, with certain exceptions, a victim who wishes to receive any notice the victim has the right to receive must make a request for the notice to be provided. The bill requires the above information to be given regardless of whether the family members requested it.¹⁷

Applicability

The bill's provisions apply with respect to officer-related deaths occurring 60 or more days after the bill's effective date.¹⁸

¹² R.C. 2901.45(G).

¹³ R.C. 2901.45(A).

¹⁴ R.C. 2930.01(Y) and 2930.04(C).

¹⁵ R.C. 2930.03(A).

¹⁶ R.C. 2930.03(C).

¹⁷ R.C. 2930.03(B)(1).

¹⁸ R.C. 2901.45(I).



HISTORY

ACTION

DATE

Introduced

10-22-15

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