COMMITTEE REPORT

January 23, 2019

**S. 38**

Introduced by Senator Malloy

S. Printed 1/23/19--S.

Read the first time January 8, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 38) to amend the Code of Laws of South Carolina, 1976, by adding Section 23‑3‑90 so as to grant the South Carolina Law Enforcement Division specific and exclusive, etc., respectfully

**REPORT:**

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

LUKE A. RANKIN for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑3‑90 SO AS TO GRANT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION SPECIFIC AND EXCLUSIVE JURISDICTION AND AUTHORITY TO CONDUCT AN INVESTIGATION OF ALL OFFICER‑INVOLVED SHOOTINGS THAT RESULT, OR COULD HAVE RESULTED, IN BODILY INJURY OR DEATH, TO ALLOW FOR AN INVESTIGATION OF AN OFFICER‑INVOLVED SHOOTING TO BE COMPLETED BY A SEPARATE LAW ENFORCEMENT AGENCY IN CERTAIN CIRCUMSTANCES, TO ESTABLISH A PROTOCOL FOR EVIDENCE COLLECTION AND PROCESSING IN CERTAIN CIRCUMSTANCES, TO GRANT AN INVESTIGATING OFFICER THE SAME AUTHORITY AS HE WOULD HAVE IN HIS HOME JURISDICTION FOR THE DURATION OF THE INVESTIGATION, TO ESTABLISH A PROCEDURE FOR THE FORWARDING OF THE EVIDENCE TO THE CIRCUIT SOLICITOR UPON COMPLETION OF THE INVESTIGATION, AND TO ESTABLISH PENALTIES FOR THE FAILURE TO COMPLETE AN INDEPENDENT INVESTIGATION PURSUANT TO THE PROVISIONS OF THIS SECTION.

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

SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑90. (A) Except as otherwise provided in this section, the South Carolina Law Enforcement Division (SLED) shall have specific and exclusive jurisdiction and authority in the investigation of:

(1) the shooting of or discharge of a weapon at a person by a law enforcement officer acting in the line of duty; and

(2) the unexpected death of an arrestee while in the care, custody, or control of a law enforcement officer or correctional officer; the unexpected death of an arrestee shortly after being in the care, custody, or control of a law enforcement officer or correctional officer; and the unexpected death of an intended arrestee during an arrest attempt by a law enforcement officer. For purposes of this section, ‘unexpected death’ includes all deaths which, before investigation, appear possibly to have been caused by trauma, or suspicious or obscure circumstances.

(B) If the officer is employed by SLED, the sheriff of the county in which the shooting, discharge, or unexpected death occurred shall investigate the shooting, discharge, or unexpected death, regardless of whether the shooting, discharge, or unexpected death occurred within an incorporated jurisdiction. If the sheriff does not employ a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations, the sheriff shall defer the investigation to a law enforcement agency that employs a full‑time unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper investigation. All forensic evidence collected at the scene of the shooting, discharge, or unexpected death must be submitted to and analyzed by an accredited state law enforcement laboratory outside of South Carolina.

(C) If an officer employed by SLED and an officer employed by the sheriff of the county in which the shooting, discharge, or unexpected death occurred are both involved in the shooting, discharge, or unexpected death, the solicitor of the county in which the shooting, discharge, or unexpected death occurred shall defer the investigation to a law enforcement agency that employs a unit that regularly processes crime scenes and conducts forensic and criminal investigations and that possesses the expertise to conduct a proper investigation. All forensic evidence collected at the scene of the shooting, discharge, or unexpected death must be submitted to and analyzed by an accredited state law enforcement laboratory outside of South Carolina.

(D) An officer investigating the shooting, discharge, or unexpected death pursuant to this section has the same authority as the officer has in the officer’s home jurisdiction for the duration of the investigation.

(E) Upon completion, all investigations must be forwarded to the solicitor’s office in the jurisdiction where the shooting, discharge, or unexpected death occurred prior to the initiation or declination of any formal criminal action.

(F) A person who knowingly and willfully violates the provisions of subsection (A), (B), or (C) is subject to punishment as provided for in Section 8‑1‑80, even if the person’s authority extends beyond a single election or judicial district.”

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

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