

By: Representative Wooten

To: Judiciary B

HOUSE BILL NO. 1319

1 AN ACT TO REQUIRE EACH LOCAL LAW ENFORCEMENT AGENCY TO ADOPT  
2 A POLICY REGARDING THE INVESTIGATION PROCESS OF ANY DEATH  
3 RESULTING FROM THE INVOLVEMENT OF AN OFFICER EMPLOYED BY THE LAW  
4 ENFORCEMENT AGENCY; TO PROVIDE THAT SUCH POLICY SHALL BE PROVIDED  
5 TO AND SIGNED BY ALL LAW ENFORCEMENT OFFICERS EMPLOYED BY THE LAW  
6 ENFORCEMENT AGENCY TO ACKNOWLEDGE RECEIPT OF THE POLICY; TO  
7 PROVIDE THAT THE INVESTIGATION PROCESS SHALL BE CONDUCTED BY  
8 INTERNAL AFFAIRS IN A TRANSPARENT MANNER THAT AVOIDS ANY  
9 APPEARANCE OF ANY CONFLICT OF INTEREST; TO PRESCRIBE THE MINIMUM  
10 CRITERIA TO BE CONTAINED IN THE POLICY; TO PROVIDE THAT THE  
11 OCCURRENCE OF CERTAIN ACTS SHALL NECESSITATE AN IMMEDIATE RESPONSE  
12 TO THE SCENE OF INCIDENT AND AN INVESTIGATION CONDUCTED BY  
13 INTERNAL AFFAIRS; TO REQUIRE THE INVESTIGATOR CONDUCTING THE  
14 INVESTIGATION TO PROVIDE A COMPLETE WRITTEN REPORT TO THE ATTORNEY  
15 GENERAL AND THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE  
16 OFFICER-INVOLVED DEATH OR INJURY OCCURRED; TO PROVIDE THAT THE  
17 INVESTIGATION OF SUCH INCIDENTS SHALL NOT EXCEED SIX MONTHS; AND  
18 FOR RELATED PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 **SECTION 1.** As used in this act, the following terms shall  
21 have the meanings ascribed in this section unless context clearly  
22 indicates otherwise:

23 (a) "Law enforcement agency" means any agency or unit  
24 of government or any municipality of the state or any political  
25 subdivision thereof, or any agent thereof which has constitutional  
26 or statutory authority to employ or appoint persons as officers.



27 The term also includes any private entity which has contracted  
28 with the state or county for the operation and maintenance of a  
29 nonjuvenile detention facility.

30 (b) "Law enforcement officer" means any person who is  
31 elected, appointed or employed full-time or part-time by any unit  
32 of government or municipality of the state or any political  
33 subdivision thereof:

34 (i) Who is vested with authority to bear arms and  
35 make arrests; and

36 (ii) Whose primary responsibility is the  
37 prevention and detection of crime or the enforcement of the penal,  
38 criminal, traffic or highway laws of the state.

39 The term includes all certified supervisory, correctional  
40 officer, correctional probation officer and command personnel  
41 whose duties, in whole or in part, include the supervision,  
42 training, guidance and management responsibilities of full-time  
43 law enforcement officers, part-time law enforcement officers or  
44 auxiliary law enforcement officers.

45 (c) "Auxiliary law enforcement officer" means any  
46 person employed or appointed, with or without compensation, who  
47 aids or assists a full-time or part-time law enforcement officer  
48 and who, while under the direct supervision of a full-time or  
49 part-time law enforcement officer, has the authority to arrest and  
50 perform law enforcement functions.



51 (d) "Officer-involved death" means a death of an  
52 individual that resulted directly from an act or an omission of a  
53 law enforcement officer while the law enforcement officer is on  
54 duty and acting within the scope of his or her authority, or while  
55 the law enforcement officer is off duty but performing activities  
56 that are within the scope of his or her law enforcement duties.

57 (e) "Officer-involved in Shooting (OIS)" means the  
58 discharge of a firearm, whether accidental or intentional, by a  
59 law enforcement officer, whether on or off duty. The term  
60 includes an officer's discharge of a firearm that results in any  
61 physical injury or death of a person, even if it is an accidental  
62 discharge.

63 **SECTION 2.** (1) Every law enforcement agency shall adopt a  
64 publicly written policy which shall be signed and attested to by  
65 each law enforcement officer employed by the law enforcement  
66 agency as confirmation of receipt regarding the investigation  
67 process of any death resulting from an officer's involvement who  
68 is employed by the law enforcement agency. The investigation  
69 process, to be conducted by Internal Affairs, shall be transparent  
70 and avoid any appearance of any conflict of interest.

71 (2) (a) Each policy adopted under subsection (1) shall  
72 require an investigation conducted by at least two (2)  
73 investigators of Internal Affairs, one (1) of whom shall be the  
74 lead investigator and neither of whom is employed by the law  
75 enforcement agency that is under the subject investigation which



76 is the employer of a law enforcement officer involved in the  
77 officer-involved death or injury of an individual. The two (2)  
78 investigators shall be appointed to the case by the Attorney  
79 General, and may be employed by the Office of the Attorney  
80 General.

81 (b) If the officer-involved death or shooting being  
82 investigated is traffic-related, the policy adopted under  
83 subsection (1) shall require the investigation to use a crash  
84 reconstruction unit from a conflict free private or public  
85 independent agency, which is not an ancillary entity of the law  
86 enforcement agency, and does not employ a law enforcement officer  
87 involved in the officer-involved death or injury who is under  
88 investigation.

89 (c) Each policy adopted under subsection (1) may allow  
90 an internal investigation into the officer-involved death only if  
91 the internal investigation does not interfere with the  
92 investigation conducted under paragraph (a) of this subsection  
93 (2).

94 **SECTION 3.** All officer-involved shootings, hit or nonhit,  
95 fatal or nonfatal, all in-custody deaths, and all serious uses of  
96 force as defined by the law enforcement agency shall necessitate  
97 an immediate response to the scene of incident and an  
98 investigation conducted by Internal Affairs, in addition to any  
99 review board proceedings or other investigations that occur or are  
100 contemplated regardless as to whether a public complaint has been



101 filed. Neither a prosecutor's declination nor any finding that  
102 such shootings or use of force were in policy or justified shall  
103 cause an internal administrative review to be terminated. An  
104 administrative review of a shooting, in-custody death and serious  
105 use of force shall urgently consider the strategic, tactical,  
106 policy, training and risk management implications of any such  
107 incident, including whether the incident could have been avoided  
108 or mitigated by changes to policy, procedures or training.

109 **SECTION 4.** (1) Internal Affairs shall conduct all serious  
110 administrative investigations, including, but not limited to,  
111 officer-involved shootings, in-custody deaths, alleged  
112 constitutional violations, allegations of racial profiling or  
113 discriminatory policing or racial prejudice and cases referred  
114 directly by the chief of police or command staff. Likewise,  
115 Internal Affairs shall also conduct all administrative  
116 investigations of allegations of misconduct that are likely to  
117 result in litigation against the department or its members.

118 (2) Alleged excessive or unreasonable minor uses of force  
119 not involving death, serious injury, or hospital care or willful,  
120 intentional, reckless, or knowing misconduct may be appropriate  
121 for investigation at the agency level. Internal Affairs shall  
122 track and monitor ongoing agency-level investigations and  
123 intervene in or take over those investigations as necessary to  
124 ensure their competence, completeness and integrity. All  
125 completed agency-level investigations shall be reviewed by



126 Internal Affairs in addition to the reviewed performed in the  
127 regular chain of command of the agency. No unit level  
128 investigation shall be closed until Internal Affairs reviews the  
129 investigation and certifies that it is full, fair and thorough.

130 **SECTION 5.** (1) (a) Compensation for participation in an  
131 investigation under Section 2(2)(a) may be determined in a manner  
132 consistent with mutual aid agreements or memorandums of  
133 understanding.

134 (b) Compensation for participation in an investigation  
135 under Section 2(2)(a) may be paid from funds obtained from asset  
136 forfeitures.

137 (2) (a) The investigator conducting the investigation under  
138 Section 2(2)(a) shall, in an expeditious manner, provide a  
139 complete written report to both the Attorney General of the State  
140 of Mississippi and the district attorney of the county in which  
141 the officer-involved death or injury occurred. The investigation  
142 shall not exceed six (6) months to investigate, and provide a  
143 complete written report of the officer-involved death, unless by  
144 motion to a federal court for an extension of time is requested  
145 and granted for good cause. Upon a finding of good cause, an  
146 extension for investigation may be granted for not more than six  
147 (6) additional months.

148 (b) If the Attorney General determines there is no  
149 basis or findings to prosecute the law enforcement officer  
150 involved in the officer-involved death or injury, the investigator



151 conducting the investigation under Section 2(2)(a) shall  
152 immediately release the report to the public.

153         **SECTION 6.** The provisions of this act shall be applicable  
154 only to officer-involved deaths occurring from and after July 1,  
155 2018.

156         **SECTION 7.** This act shall take effect and be in force from  
157 and after July 1, 2018.

