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[jr]

LG → passed

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2017-0139, VERSION**

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3 On page 1, beginning on line 13, strike everything through page 16, line 331, and insert:

4 "STATEMENT OF FACTS:

5 1. The creation and maintenance of an independent civilian office of law  
6 enforcement oversight is an essential means of assuring integrity,

7 transparency, and accountability in law enforcement and of fostering  
8 community trust in, and respect and support for, the sheriff's office.

9 2. In 2015 the people of King County amended the King County Charter  
10 to include Section 265 affirming the foundation and role of the office of  
11 law enforcement oversight.

12 3. The King County Code related to the office of law enforcement  
13 oversight and the department of public safety should be updated to reflect  
14 Section 265 of the King County Charter.

15 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

16 SECTION 1. Ordinance 15611, Section 2, as amended, and K.C.C. 2.75.010 are  
17 each hereby amended to read as follows:

18 The definitions in this section apply throughout this chapter unless the context

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19 clearly requires otherwise.

20 A. (~~"Command staff" means those sheriff's employees who are responsible for~~  
21 ~~the chain of command or line of supervision from shift, unit or precinct levels through~~  
22 ~~division command level, including the sheriff.~~

23 B. ~~"Director" means the director of the office of law enforcement oversight or the~~  
24 ~~director's designee.~~

25 C. ~~"Critical incident review" means the written findings of a shooting review~~  
26 ~~board or an accident review board conducted by the sheriff's office.~~

27 D. ~~"Internal investigations unit" means the unit within the sheriff's office~~  
28 ~~responsible for internal investigations, or its successor.~~

29 E. ~~"Office" means the office of law enforcement oversight created under this~~  
30 ~~chapter.~~

31 F. ~~"Serious matter" means allegations of serious misconduct as defined in the~~  
32 ~~Sheriff's Office General Orders Manual as currently written or hereinafter amended.~~

33 G. ~~"Sustained complaint" means a complaint where, as the result of an~~  
34 ~~investigation, the allegation is supported by sufficient factual evidence and was a~~  
35 ~~violation of policy.)~~ "Administrative investigation" means an internal investigation of  
36 alleged misconduct by an employee.

37 B. "Certification review" means the monitoring and examination of an  
38 administrative investigation in order to determine whether the investigation was  
39 thorough, complete, accurate, timely, objective and in compliance with sheriff's office  
40 procedures.

41 C. "Complaint" means any communication to the sheriff's office or the oversight

42 office alleging possible misconduct by an employee.

43 D. "Concern" means any communication to the oversight office about a matter  
44 that is related to the work of the oversight office and is not the subject of a complaint.

45 E. "Director" means the director of the office of law enforcement oversight or the  
46 director's designee.

47 F. "Employee" means the sheriff and any person whether paid, unpaid,  
48 temporary, permanent, intern, probationary, volunteer, appointed, non-appointed,  
49 commissioned or noncommissioned, who is employed or supervised by the sheriff's  
50 office.

51 G. "Finding" means a determination made at the conclusion of an administrative  
52 investigation of whether the alleged misconduct was or was not proved by the applicable  
53 standard of proof.

54 H. "Intake classification" means the decision made as to whether a complaint  
55 should be investigated, transferred to an employee's supervisor for follow-up or not acted  
56 upon. Intake classifications also identify each misconduct allegation and associated  
57 named employee or employees, whether the matter will be investigated by the sheriff's  
58 office or the oversight office and whether mediation or an alternative resolution is  
59 appropriate.

60 I. "Misconduct" means any violation of a law or a sheriff's office or other  
61 applicable policy, procedure, rule or regulation.

62 J. "Oversight office" means the office of law enforcement oversight.

63 K. "Sheriff's office" means the department of public safety, including all  
64 divisions and units of the department.

65            SECTION 2. Ordinance 15611, Section 3, as amended, and K.C.C. 2.75.020 are  
66 each hereby amended to read as follows:

67            The office of law enforcement oversight is hereby established within the  
68 legislative branch, in accordance with Section 265 of the King County Charter. The  
69 office of law enforcement oversight is ~~((an investigative agency as that term is used in~~  
70 ~~RCW 42.56.240.~~ The office's roles, responsibilities and authorities are prescribed in this  
71 ~~chapter. Decisions about the functions and implementation of the office should be the~~  
72 ~~result of a collaborative process that involves, at a minimum, the executive, the council,~~  
73 ~~the prosecuting attorney, the sheriff and the labor organizations that represent sheriff's~~  
74 ~~office employees)) established to represent the interests of the public and increase~~  
75 ~~confidence in King County police services through independent civilian oversight of the~~  
76 ~~sheriff's office and all of its employees. The organization and administration of the~~  
77 ~~oversight office shall be sufficiently independent to assure that no interference or~~  
78 ~~influence external to the office shall adversely affect independent and objective review~~  
79 ~~and analysis by the office. The office of law enforcement oversight is an investigative~~  
80 ~~agency as that term is used in RCW 42.56.240.~~

81            SECTION 3. Ordinance 15611, Section 4, as amended, and K.C.C. 2.75.030 are  
82 each hereby amended to read as follows:

83            A. The director shall be appointed by a majority of the council to implement and  
84 manage the duties of the oversight office.

85            B. The ~~((executive shall conduct))~~ director shall be selected by the council  
86 through a nationwide search ~~((for the director to identify candidates with the following~~  
87 ~~characteristics:~~

88           1. ~~A reputation for integrity and professionalism, as well as the ability to~~  
89 ~~maintain a high standard of integrity in the office;~~  
90           2. ~~An understanding of and a commitment to the responsibilities of the office;~~  
91           3. ~~Demonstrated leadership and a history of effective management and~~  
92 ~~administration;~~  
93           4. ~~The ability to gain the trust and respect of sheriff's office employees;~~  
94           5. ~~The ability to work effectively with the executive, council, prosecuting~~  
95 ~~attorney and sheriff, as well as other public agencies, labor organizations, private~~  
96 ~~organizations and citizens;~~  
97           6. ~~An openness to innovation and new ideas;~~  
98           7. ~~Sensitivity to and knowledge of the particular needs and concerns of~~  
99 ~~minorities and women in a law enforcement setting;~~  
100           8. ~~The ability to work effectively under pressure with controversial issues and~~  
101 ~~the ability to effectively communicate with diverse groups;~~  
102           9. ~~No history of employment in the sheriff's office;~~  
103           10. ~~A history that includes the establishment of a reputation for even-~~  
104 ~~handedness and fairness in dealing with both complainants and regulated parties; and~~  
105           11. ~~The selected director must pass a complete criminal background check prior~~  
106 ~~to confirmation.~~  
107           B. ~~Candidates for appointment shall be selected by a committee of five members~~  
108 ~~that shall recommend three candidates for the director position to the council. The~~  
109 ~~selection committee shall be composed of: one member appointed by the King County~~  
110 ~~Police Officers' Guild; one member appointed by the Puget Sound Police Managers'~~

111 Association; one member appointed by the chair of the county council; and one member  
112 appointed by the county executive. The fifth member shall be appointed by the other four  
113 members. If none of the three recommended candidates has the support of a majority of  
114 the council, the council may direct by motion the commencement of a new recruitment  
115 and recommendation process)) through a merit-based selection process.

116 C. The selected director must pass a complete criminal background check before  
117 confirmation.

118 D. The director shall serve a term of four years, unless removed for cause at any  
119 time by ~~((motion approved by))~~ a majority of the council, and shall be considered ~~((by the~~  
120 ~~county council))~~ for reappointment at the end of each term of office.

121 ~~((D.))~~ E. The director, ~~((with consultation of the council))~~ consistent with the  
122 Organizational Motion of the council and within the ~~((amount))~~ resources available or  
123 budgeted by appropriation, may employ staff or use the services of consultants as may be  
124 necessary for conduct of the oversight office's duties. ~~((These employees or contractors~~  
125 ~~must pass a complete criminal background check before employment.))~~

126 SECTION 4. Ordinance 15611, Section 5, as amended, and K.C.C. 2.75.040 are  
127 each hereby amended to read as follows:

128 In order to ~~((ensure the integrity of the sheriff's complaint and investigations~~  
129 ~~processes and to ensure resolution of citizen and employee initiated complaints:~~

130 A. ~~The office shall receive complaints from any complaining party concerning~~  
131 ~~the sheriff's office, track complaints received and transmit the complaints to the internal~~  
132 ~~investigations unit;~~

133 B. ~~In addition to complaints received by the office, the internal investigations~~

134 ~~unit shall provide copies of all other complaints to the office within three business days;~~

135 ~~C. The office shall not conduct independent disciplinary investigations, but may~~  
136 ~~participate in interviews as provided in K.C.C. 2.75.060;~~

137 ~~D. The office shall be provided a copy of any letter or other notification to an~~  
138 ~~officer informing them of actual discipline imposed as a result of an internal affairs~~  
139 ~~investigation or the notice of finding if the complaint is not sustained;~~

140 ~~E. The office shall be notified by the internal investigations unit within five~~  
141 ~~business days of the completion of an internal investigation. The office, in addition to the~~  
142 ~~sheriff's office's written notice of finding letter to the complainant, may send a closing~~  
143 ~~letter to the complainant)) instill confidence and public trust in the fairness and integrity~~  
144 ~~of the police accountability system, the sheriff's office and its employees, the oversight~~  
145 ~~office shall have the authority to:~~

146 ~~A. Receive and consider complaints and concerns, and:~~

147 ~~1. Refer the complaint to the sheriff's office with or without an intake~~

148 ~~classification recommendation; or~~

149 ~~2. Conduct an investigation of the complaint or concern and transmit the~~

150 ~~associated review, analysis and findings to the sheriff and if the investigation is about the~~

151 ~~sheriff, to the council and executive;~~

152 ~~B. Review, and agree with or recommend changes to all proposed intake~~

153 ~~classifications before the sheriff's office investigates or closes any complaint;~~

154 ~~C. Conduct a certification review of any administrative investigation before the~~

155 ~~sheriff's office issues the findings. Additionally, the oversight office may review and~~

156 ~~make recommendations related to the proposed findings;~~

157 D. Review and make timely recommendations to the sheriff regarding changes to  
158 sheriff's office policies, rules, procedures or general orders. It is the policy of the county  
159 that the sheriff consult with the oversight office before implementing changes to all  
160 general orders, as well as policies and procedures relating to administrative investigations  
161 and reviews, unless prior implementation is deemed necessary to address urgent  
162 circumstances;

163 E. Conduct systemic reviews and issue conclusions and recommendations to the  
164 sheriff regarding sheriff's office operations, training, policies, rules, procedures, practices  
165 or general orders related to the work of the oversight office;

166 F. Conduct community outreach and engagement activities;

167 G. Develop and publish reports related to the work of the oversight office, trends  
168 in police practices and the complaint handling process. All reports published by the  
169 oversight office shall be electronically filed with the clerk of the council for distribution  
170 to all councilmembers;

171 H. Develop and, by June 1 of each year, transmit an annual report and a motion  
172 accepting the report to the clerk of the council for distribution to all councilmembers.

173 The annual report shall include analyses, recommendations and conclusions relating to all  
174 phases of the sheriff's complaint handling process, related findings and final status of  
175 complaints; and

176 I. Review and, at the discretion of the oversight office, report on or conduct  
177 systemic reviews related to the findings of King County inquests involving a sheriff's  
178 office employee.

179 SECTION 5. The following are each hereby repealed:

180 A. Ordinance 15611, Section 6, as amended, and K.C.C. 2.75.050; and

181 B. Ordinance 15611, Section 7, as amended, and K.C.C. 2.75.060.

182 NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 2.75 a  
183 new section to read as follows:

184 The oversight office is authorized to obtain all relevant information in a timely  
185 manner as necessary to fulfill the authorities of K.C.C. 2.75.040, including:

186 A. Access to all relevant employees, facilities, systems, documents, files, records,  
187 data, interviews, hearings, boards, trainings and meetings;

188 B. Access crime scenes and related follow-up administrative investigations, in a  
189 manner so as to protect the integrity of the scene; and

190 C. Notification from the sheriff's office regarding the current status of all  
191 complaints as follows:

192 1. When a complaint is received;

193 2. When a complaint is given a proposed intake classification, but before the  
194 complaint is classified, or when a change in the classification of a complaint is made;

195 3. Of the date, time and location of any interview that is conducted as part of an  
196 administrative investigation;

197 4. When an administrative investigation, and any additional investigative steps  
198 requested by the oversight office, is complete, but before the subject employee is notified  
199 by the sheriff's office of the findings;

200 5. When findings and recommendations are issued; and

201 6. When and what discipline is recommended in writing.

202 NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 2.75 a

203 new section to read as follows:

204           A. The oversight office may issue a subpoena to compel any person to appear,  
205 give sworn testimony or produce documentary or other evidence reasonable in scope and  
206 relevant to the matter under inquiry and limited to the matters associated with the  
207 authority granted under K.C.C. 2.75.040.A.2.

208           B. A person required by the oversight office to provide information shall be paid  
209 the same fees and allowances, in the same manner and under the same conditions, as are  
210 extended to witnesses whose attendance has been required in the courts of this state,  
211 excepting that city or county employees who are receiving compensation for the time that  
212 they are witnesses shall not be paid the set fees and allowances.

213           C. A person who, with or without service of compulsory process, provides oral or  
214 documentary information requested by the director shall be accorded the same privileges  
215 and immunities as are extended to witnesses in the courts of this state.

216           D. Any witness in a proceeding before the oversight office shall have the right to  
217 be represented by counsel.

218           E. If a person fails to obey a subpoena, or obeys a subpoena but refuses to testify  
219 when requested concerning any matter under examination or investigation at the hearing,  
220 the director may petition the superior court of King County for enforcement of the  
221 subpoena. The petition shall be accompanied by a copy of the subpoena and proof of  
222 service, and shall set forth in what specific manner the subpoena has not been complied  
223 with, and shall ask an order of the court to compel the witness to appear and testify before  
224 the oversight office. The court upon such a petition shall enter an order directing the  
225 witness to appear before the court at a time and place to be fixed in the order, and then

226 and there to show cause why the witness has not responded to the subpoena or has  
227 refused to testify. A copy of the order shall be served upon the witness. If it appears to  
228 the court that the subpoena was properly issued and that the particular questions that the  
229 witness refuses to answer are reasonable and relevant, the court shall enter an order that  
230 the witness appear at the time and place fixed in the order and testify or produce the  
231 required papers and on failing to obey the order the witness shall be dealt with as for a  
232 contempt of court.

233 SECTION 8. Ordinance 15611, Section 8, as amended, and K.C.C. 2.75.070 are  
234 each hereby amended to read as follows:

235 The oversight office, in collaboration with the sheriff's office, shall establish and  
236 administer a voluntary (~~officer-citizen~~) mediation or alternative dispute resolution  
237 program. The program shall provide (~~an~~) alternative methods to resolve (~~citizen~~)  
238 complaints by allowing willing citizens, employees and officers to meet under the  
239 guidance of a professional mediator to otherwise discuss and resolve their differences.  
240 The oversight office and the sheriff's office shall establish standards and guidelines for  
241 determining when a particular complaint may be referred to mediation. (~~Serious~~  
242 ~~complaints are excluded from the use of mediation to resolve allegations. Prior to the~~  
243 ~~complainant agreeing to utilize the mediation process to resolve the complaint, the office~~  
244 ~~shall explain the mediation process to the complainant, including that if the officer~~  
245 ~~participates in good faith, the officer will not be subject to discipline and the complaint~~  
246 ~~will be administratively dismissed.))~~

247 SECTION 9. Ordinance 1438, Section 3(c), as amended, and K.C.C. 2.16.060 are  
248 each hereby amended to read as follows:

249 A. The department of public safety, as identified in the Section 350.20.40 of the  
250 King County Charter, and managed by the King County sheriff, may also be known and  
251 cited in the King County Code and in other usage as the office of the sheriff. Employees  
252 managed by the King County sheriff may be referred to in the King County Code or  
253 otherwise, as King County police, King County officer((-)) or deputy sheriff.

254 B. The department of public safety is responsible to keep and preserve the public  
255 peace and safety including the discharge of all duties of the office of sheriff under  
256 ((S))state law, except those duties relating to jails and inmates which are performed by  
257 other departments of county government. The functions of the department include:

258 1. Oversee a crime prevention program, investigate crimes against persons and  
259 property and arrest alleged offenders((-));

260 2. Execute the processes and orders of the courts of justice and all other  
261 mandated functions required by law((-);

262 3. In coordination with the office of emergency management, plan and  
263 coordinate resources for the public safety and welfare in the event of a major emergency  
264 or disaster((-);

265 4. Provide service and administrative functions which support but do not  
266 duplicate other governmental activities, and which have the potential to be fiscally self-  
267 supportive((-);

268 5. Investigate the origin, cause, circumstances and extent of loss of all fires, in  
269 accordance with RCW 43.44.050. Fire investigations shall be conducted under the  
270 direction of the fire investigation supervisor, who shall also be considered an assistant  
271 fire marshal for the purposes of chapter 43.44 RCW. The functions of the fire and arson

272 investigation unit include, but are not limited to: investigation and determination of the  
273 origin and cause of fires; preparation of detailed informational, investigative and  
274 statistical reports; conducting criminal follow-up investigations, including detection,  
275 apprehension and prosecution of arson suspects; providing expert testimony in court for  
276 criminal and civil cases; maintenance of records of fires; preparation and submission of  
277 annual reports to the county sheriff and other entities as required by chapters 43.44 and  
278 48.50 RCW; and

279 6. Consistent with the office of law enforcement oversight carrying out its  
280 authorities as identified in Section 365 King County Charter and K.C.C. chapter 2.75:

281 a. provide the office of law enforcement oversight all relevant information in a  
282 timely manner, including:

283 (1) access to all relevant employees, facilities, systems, documents, files,  
284 records, data, interviews, hearings, boards, trainings and meetings;

285 (2) access to crime scenes and related follow-up administrative investigations,  
286 in a manner so as to protect the integrity of the scene; and

287 (3) notifications regarding the current status of all complaints consistent with  
288 2.75.050.C.;

289 b. provide the oversight office with a reasonable opportunity to comment on all  
290 administrative investigations before notifying the subject employee of the findings;

291 c. provide the oversight office with a reasonable opportunity to comment on all  
292 sheriff's office policies, rules, procedures or general orders; and

293 d. annually, in collaboration with the office of law enforcement oversight,  
294 establish or update, as needed, pilot projects and sheriff's office policies and procedures

295 related to implementation of the authorities of K.C.C. chapter 2.75, including such things  
296 as timelines and processes for achieving K.C.C. 2.16.060.B.6.a., b., c. and d., and records  
297 management and controls.

298 C. The sheriff, to carry out the duties under subsection B. of this section, may  
299 establish the functions for the following divisions:

- 300 1. Office of the sheriff;
- 301 2. Patrol operations division;
- 302 3. Support services division;
- 303 4. Criminal investigation division;
- 304 5. Professional standards division;
- 305 6. Sound Transit division, which provides services to the Central Puget Sound  
306 Regional Transit Authority; and
- 307 7. Metro Transit division, which provides services to the King County  
308 department of transportation, transit division.

309 SECTION 10. A. Any provision of this ordinance that would establish a working  
310 condition that is a mandatory subject of collective bargaining shall not apply to members  
311 of that bargaining unit until the county has satisfied its bargaining obligation with respect  
312 to the provision.

313 B. In the event of a conflict between the provisions of this ordinance and a  
314 collective bargaining agreement, the provisions of the collective bargaining agreement  
315 shall govern for those affected employees."

316 **EFFECT:**

317 **Addresses potential issues regarding Sheriff's authorities related to intake**  
318 **classification, the review of policies and procedures by the Oversight Office, and**  
319 **collaboration between the Sheriff's Office and Oversight Office in the development**  
320 **of implementation policies and procedures through Sections 4, 6 and 9;**  
321 **Makes non-substantive language changes for clarity; and**  
322 **Adds back the mistakenly left out requirement for the Director to pass a complete**  
323 **criminal background check.**