

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding the heading of Article 121A and Sections
6 121A-1, 121A-2, and 121A-3 as follows:

7 (725 ILCS 5/Art. 121A heading new)

8 ARTICLE 121A. PENDING APPEAL AFTER DEFENDANT'S DEATH

9 (725 ILCS 5/121A-1 new)

10 Sec. 121A-1. Application of Article.

11 Unless otherwise provided by Rules of the Supreme Court,
12 this Article shall govern pending review in all criminal cases
13 after the death of the defendant.

14 (725 ILCS 5/121A-2 new)

15 Sec. 121A-2. Pending appeal by the State after the
16 defendant's death.

17 (a) Whenever the prosecuting attorney on appeal of a
18 criminal case by the State learns of the death of the
19 defendant, he or she shall promptly notify the other party and
20 file a certificate of notice of the defendant's death with the
21 court before which the appeal is pending.

1 (b) If a certificate of notice of the defendant's death has
2 not been filed under subsection (a) of this Section, the
3 executor or administrator of the defendant's estate or other
4 successor in interest shall have standing to file a certificate
5 of notice of the defendant's death with the court before which
6 the appeal is pending, and he or she shall promptly notify the
7 other parties and file a certificate of notice of the
8 defendant's death with the court before which the appeal is
9 pending.

10 (c) Upon the filing of the certificate under subsection (a)
11 or (b) of this Section, the court shall vacate the judgment and
12 sentence of the trial court and the cause shall be forever
13 abated.

14 (725 ILCS 5/121A-3 new)

15 Sec. 121A-3. Pending appeal by the defendant after the
16 defendant's death.

17 (a) Whenever the prosecuting attorney learns of the death
18 of the defendant on appeal of a criminal case by the defendant,
19 he or she shall promptly notify the other party and file a
20 certificate of notice of the defendant's death with the court
21 before which the appeal is pending.

22 (b) If a certificate of notice of the defendant's death has
23 not been filed under subsection (a) of this Section, the
24 executor or administrator of the defendant's estate or other
25 successor in interest shall have standing to file a certificate

1 of notice of the defendant's death with the court before which
2 the appeal is pending, and he or she shall promptly notify the
3 other parties and file a certificate of notice of the
4 defendant's death with the court before which the appeal is
5 pending.

6 (c) Upon the filing of the certificate under subsection (a)
7 or (b) of this Section, the court shall immediately stay
8 further action in the proceeding for 28 days.

9 (d) The executor or administrator of the defendant's estate
10 or other successor in interest shall have standing to petition
11 the court for leave to intervene in the appeal for the purpose
12 of pursuing the appeal in place of the defendant. A successor
13 in interest shall file a petition during the period of stay
14 under subsection (c) of this Section. If the court receives a
15 timely petition for leave to intervene, the court shall permit
16 the petitioning party to intervene in the appeal in place of
17 the defendant and the appeal shall proceed in the same manner
18 as if the defendant were still alive. If, after intervention,
19 the appeal results in:

20 (1) the entry of an order affirming the decision of the
21 trial court, the intervenor may continue to pursue the
22 appeal on the behalf of the defendant or seek
23 post-conviction relief to the extent that further
24 appellate or post-conviction relief would have been
25 available to the defendant were he or she still alive;

26 (2) a finding of error by the court resulting in the

1 reversal of a defendant's conviction, the court shall
2 vacate the judgment and sentence of the trial court and the
3 cause shall be forever abated; or

4 (3) a finding of error which would require the trial
5 court to resentence the defendant, but does not require
6 reversal of the defendant's sentence, the court shall
7 vacate the sentence imposed by the trial court and the
8 conviction shall stand.

9 (e) If no petition for leave of the court to intervene is
10 filed under subsection (d) of this Section, the court shall
11 dismiss the appeal without disturbing the decision of the trial
12 court or sentence it imposed.