



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0255

Introduced 1/29/2021, by Rep. Kambium Buckner

SYNOPSIS AS INTRODUCED:

50 ILCS 727/1-10
55 ILCS 5/3-9008

from Ch. 34, par. 3-9008

Amends the Police and Community Relations Improvement Act. Provides that in the case of a law enforcement officer-involved death, the chief judge of the circuit court of the circuit in which the law enforcement officer-involved death occurred shall appoint a special prosecutor to review the report of the investigators assigned to investigate an officer-involved death and to prosecute the officer involved in the death, if the special prosecutor determines that there is a basis for the prosecution. Amends the Counties Code to make conforming changes. Effective immediately.

LRB102 02629 RLC 12632 b

1 AN ACT concerning local government.

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

4 Section 5. The Police and Community Relations Improvement
5 Act is amended by changing Section 1-10 as follows:

6 (50 ILCS 727/1-10)

7 Sec. 1-10. Investigation of officer-involved deaths;
8 requirements.

9 (a) Each law enforcement agency shall have a written
10 policy regarding the investigation of officer-involved deaths
11 that involve a law enforcement officer employed by that law
12 enforcement agency.

13 (b) Each officer-involved death investigation shall be
14 conducted by at least 2 investigators, or an entity or agency
15 comprised of at least 2 investigators, one of whom is the lead
16 investigator. The lead investigator shall be a person
17 certified by the Illinois Law Enforcement Training Standards
18 Board as a Lead Homicide Investigator, or similar training
19 approved by the Illinois Law Enforcement Training Standards
20 Board or the Department of State Police, or similar training
21 provided at an Illinois Law Enforcement Training Standards
22 Board certified school. No investigator involved in the
23 investigation may be employed by the law enforcement agency

1 that employs the officer involved in the officer-involved
2 death, unless the investigator is employed by the Department
3 of State Police and is not assigned to the same division or
4 unit as the officer involved in the death.

5 (c) In addition to the requirements of subsection (b) of
6 this Section, if the officer-involved death being investigated
7 involves a motor vehicle accident, at least one investigator
8 shall be certified by the Illinois Law Enforcement Training
9 Standards Board as a Crash Reconstruction Specialist, or
10 similar training approved by the Illinois Law Enforcement
11 Training Standards Board or the Department of State Police, or
12 similar training provided at an Illinois Law Enforcement
13 Training Standards Board certified school. Notwithstanding the
14 requirements of subsection (b) of this Section, the policy for
15 a law enforcement agency, when the officer-involved death
16 being investigated involves a motor vehicle collision, may
17 allow the use of an investigator who is employed by that law
18 enforcement agency and who is certified by the Illinois Law
19 Enforcement Training Standards Board as a Crash Reconstruction
20 Specialist, or similar training approved by the Illinois Law
21 Enforcement Training and Standards Board, or similar certified
22 training approved by the Department of State Police, or
23 similar training provided at an Illinois Law Enforcement
24 Training and Standards Board certified school.

25 (d) The investigators conducting the investigation shall,
26 in an expeditious manner, provide a complete report to the

1 special prosecutor appointed by the court as provided in
2 subsection (d-5) ~~State's Attorney of the county in which the~~
3 ~~officer-involved death occurred.~~

4 (d-5) The chief judge of the circuit court of the circuit
5 in which the law enforcement officer-involved death occurred
6 shall appoint a special prosecutor to review the report of the
7 investigators assigned to investigate an officer-involved
8 death and to prosecute the officer involved in the death, if
9 the special prosecutor determines that there is a basis for
10 the prosecution.

11 (e) If the special prosecutor appointed by the court under
12 subsection (d-5) ~~State's Attorney, or a designated special~~
13 ~~prosecutor,~~ determines there is no basis to prosecute the law
14 enforcement officer involved in the officer-involved death, or
15 if the law enforcement officer is not otherwise charged or
16 indicted, the investigators shall publicly release a report.

17 (Source: P.A. 99-352, eff. 1-1-16.)

18 Section 10. The Counties Code is amended by changing
19 Section 3-9008 as follows:

20 (55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

21 Sec. 3-9008. Appointment of attorney to perform duties.

22 (a) (Blank).

23 (a-5) The court on its own motion, or an interested person
24 in a cause or proceeding, civil or criminal, may file a

1 petition alleging that the State's Attorney is sick, absent,
2 or unable to fulfill his or her duties. The court shall
3 consider the petition, any documents filed in response, and if
4 necessary, grant a hearing to determine whether the State's
5 Attorney is sick, absent, or otherwise unable to fulfill his
6 or her duties. If the court finds that the State's Attorney is
7 sick, absent, or otherwise unable to fulfill his or her
8 duties, the court may appoint some competent attorney to
9 prosecute or defend the cause or proceeding.

10 (a-10) The court on its own motion, or an interested
11 person in a cause or proceeding, civil or criminal, may file a
12 petition alleging that the State's Attorney has an actual
13 conflict of interest in the cause or proceeding. The court
14 shall consider the petition, any documents filed in response,
15 and if necessary, grant a hearing to determine whether the
16 State's Attorney has an actual conflict of interest in the
17 cause or proceeding. If the court finds that the petitioner
18 has proven by sufficient facts and evidence that the State's
19 Attorney has an actual conflict of interest in a specific
20 case, the court may appoint some competent attorney to
21 prosecute or defend the cause or proceeding.

22 (a-11) In the case of an officer-involved death, as
23 defined in Section 1-5 of the Police and Community Relations
24 Improvement Act, the court shall appoint a special prosecutor
25 to prosecute a law enforcement officer for an officer-involved
26 death as provided in subsection (d-5) of Section 1-10 of that

1 Act.

2 (a-15) Notwithstanding subsections (a-5) and (a-10) of
3 this Section, the State's Attorney may file a petition to
4 recuse himself or herself from a cause or proceeding for any
5 other reason he or she deems appropriate and the court shall
6 appoint a special prosecutor as provided in this Section.

7 (a-20) Prior to appointing a private attorney under this
8 Section, the court shall contact public agencies, including,
9 but not limited to, the Office of Attorney General, Office of
10 the State's Attorneys Appellate Prosecutor, or local State's
11 Attorney's Offices throughout the State, to determine a public
12 prosecutor's availability to serve as a special prosecutor at
13 no cost to the county and shall appoint a public agency if they
14 are able and willing to accept the appointment. An attorney so
15 appointed shall have the same power and authority in relation
16 to the cause or proceeding as the State's Attorney would have
17 if present and attending to the cause or proceedings.

18 (b) In case of a vacancy of more than one year occurring in
19 any county in the office of State's attorney, by death,
20 resignation or otherwise, and it becomes necessary for the
21 transaction of the public business, that some competent
22 attorney act as State's attorney in and for such county during
23 the period between the time of the occurrence of such vacancy
24 and the election and qualification of a State's attorney, as
25 provided by law, the vacancy shall be filled upon the written
26 request of a majority of the circuit judges of the circuit in

1 which is located the county where such vacancy exists, by
2 appointment as provided in The Election Code of some competent
3 attorney to perform and discharge all the duties of a State's
4 attorney in the said county, such appointment and all
5 authority thereunder to cease upon the election and
6 qualification of a State's attorney, as provided by law. Any
7 attorney appointed for any reason under this Section shall
8 possess all the powers and discharge all the duties of a
9 regularly elected State's attorney under the laws of the State
10 to the extent necessary to fulfill the purpose of such
11 appointment, and shall be paid by the county he serves not to
12 exceed in any one period of 12 months, for the reasonable
13 amount of time actually expended in carrying out the purpose
14 of such appointment, the same compensation as provided by law
15 for the State's attorney of the county, apportioned, in the
16 case of lesser amounts of compensation, as to the time of
17 service reasonably and actually expended. The county shall
18 participate in all agreements on the rate of compensation of a
19 special prosecutor.

20 (c) An order granting authority to a special prosecutor
21 must be construed strictly and narrowly by the court. The
22 power and authority of a special prosecutor shall not be
23 expanded without prior notice to the county. In the case of the
24 proposed expansion of a special prosecutor's power and
25 authority, a county may provide the court with information on
26 the financial impact of an expansion on the county. Prior to

1 the signing of an order requiring a county to pay for
2 attorney's fees or litigation expenses, the county shall be
3 provided with a detailed copy of the invoice describing the
4 fees, and the invoice shall include all activities performed
5 in relation to the case and the amount of time spent on each
6 activity.

7 (Source: P.A. 99-352, eff. 1-1-16.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.