



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3926

Introduced 10/28/2019, 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.

LRB101 14730 RLC 63679 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 policy
10 regarding the investigation of officer-involved deaths that
11 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 certified
17 by the Illinois Law Enforcement Training Standards Board as a
18 Lead Homicide Investigator, or similar training approved by the
19 Illinois Law Enforcement Training Standards Board or the
20 Department of State Police, or similar training provided at an
21 Illinois Law Enforcement Training Standards Board certified
22 school. No investigator involved in the investigation may be
23 employed by the law enforcement agency that employs the officer

1 involved in the officer-involved death, unless the
2 investigator is employed by the Department of State Police and
3 is not assigned to the same division or unit as the officer
4 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 being
16 investigated involves a motor vehicle collision, may allow the
17 use of an investigator who is employed by that law enforcement
18 agency and who is certified by the Illinois Law Enforcement
19 Training Standards Board as a Crash Reconstruction Specialist,
20 or similar training approved by the Illinois Law Enforcement
21 Training and Standards Board, or similar certified training
22 approved by the Department of State Police, or similar training
23 provided at an Illinois Law Enforcement Training and Standards
24 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 the
10 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, or
2 unable to fulfill his or her duties. The court shall consider
3 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 or
6 her duties. If the court finds that the State's Attorney is
7 sick, absent, or otherwise unable to fulfill his or her duties,
8 the court may appoint some competent attorney to prosecute or
9 defend the cause or proceeding.

10 (a-10) The court on its own motion, or an interested person
11 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 has
18 proven by sufficient facts and evidence that the State's
19 Attorney has an actual conflict of interest in a specific case,
20 the court may appoint some competent attorney to prosecute or
21 defend the cause or proceeding.

22 (a-11) In the case of an officer-involved death, as defined
23 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 authority
5 thereunder to cease upon the election and qualification of a
6 State's attorney, as provided by law. Any attorney appointed
7 for any reason under this Section shall possess all the powers
8 and discharge all the duties of a regularly elected State's
9 attorney under the laws of the State to the extent necessary to
10 fulfill the purpose of such appointment, and shall be paid by
11 the county he serves not to exceed in any one period of 12
12 months, for the reasonable amount of time actually expended in
13 carrying out the purpose of such appointment, the same
14 compensation as provided by law for the State's attorney of the
15 county, apportioned, in the case of lesser amounts of
16 compensation, as to the time of service reasonably and actually
17 expended. The county shall participate in all agreements on the
18 rate of compensation of a special prosecutor.

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

1 litigation expenses, the county shall be provided with a
2 detailed copy of the invoice describing the fees, and the
3 invoice shall include all activities performed in relation to
4 the case and the amount of time spent on each activity.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.