



Rep. Patricia R. Bellock

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09900HB3373ham001

LRB099 07872 MRW 32992 a

1 AMENDMENT TO HOUSE BILL 3373

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3373 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Sections 120-5 and 121-14 as follows:

6 (725 ILCS 5/120-5 new)

7 Sec. 120-5. Appeal; defendant's death.

8 (a) Any party who learns of the death of a defendant in a  
9 criminal case that is pending on an appeal by the State shall  
10 notify the court and all other parties of the death within 28  
11 days after learning of the death. Any party may move to dismiss  
12 the appeal, and upon this motion the court shall dismiss the  
13 State's appeal.

14 (725 ILCS 5/121-14 new)

15 Sec. 121-14. Appeal; defendant's death or escape.

1       (a) Any party who learns of the death of a defendant in a  
2 criminal case that is pending on an appeal by the defendant  
3 shall notify the court and all other parties of the death  
4 within 28 days after learning of the death. Any party may move  
5 to dismiss the appeal.

6       (1) If the appeal is from a judgment of conviction and  
7 sentence, the party filing the notice also may,  
8 concurrently with filing the notice of the defendant's  
9 death, file a memorandum addressing whether the court  
10 should dismiss the appeal or vacate the judgment, or both.  
11 Within 28 days after the filing of the notice of the  
12 defendant's death, any other party or interested person may  
13 file a memorandum addressing the same issues.

14       (2) The following are presumptive dispositions under  
15 this subsection:

16       (A) If the defendant has made an assignment of  
17 error that, if successful, would result in reversal of  
18 the conviction, the court shall vacate the judgment and  
19 dismiss the appeal.

20       (B) If the defendant has assigned error only to a  
21 part of the sentence other than a monetary provision,  
22 the court shall dismiss the appeal but shall not vacate  
23 the judgment.

24       (C) If the defendant has assigned error to a  
25 monetary provision of the sentence, the court shall  
26 dismiss the appeal and vacate the challenged monetary

1 provision, but shall not vacate the remainder of the  
2 judgment.

3 (D) Notwithstanding subparagraphs (A), (B), and  
4 (C) of this paragraph (2), if the defendant dies after  
5 issuance of an appellate court decision affirming the  
6 judgment and after all right to petition for review has  
7 expired, the court shall dismiss the appeal but shall  
8 not vacate the judgment.

9 (b) If a defendant in a criminal case, a petitioner in a  
10 post-conviction relief proceeding, a plaintiff in a habeas  
11 corpus proceeding, a petitioner in a parole review proceeding,  
12 or a petitioner in a prison disciplinary case, on appeal of an  
13 adverse decision, escapes or absconds from custody or  
14 supervision, the respondent on appeal may move for dismissal of  
15 the appeal. If the appellant is not in custody or under  
16 supervision at the time the motion is decided by the court, the  
17 court may dismiss the appeal or judicial review.

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.".