



Rep. Patricia R. Bellock

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09900HB4683ham001

LRB099 15776 MRW 46919 a

1 AMENDMENT TO HOUSE BILL 4683

2 AMENDMENT NO. _____. Amend House Bill 4683 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 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)

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

3 (a) Whenever the prosecuting attorney on appeal of a
4 criminal case by the State learns of the death of the
5 defendant, he or she shall promptly notify the other party and
6 file a certificate of notice of the defendant's death with the
7 court before which the appeal is pending.

8 (b) If a certificate of notice of the defendant's death has
9 not been filed under subsection (a) of this Section, the
10 executor or administrator of the defendant's estate or other
11 successor in interest shall have standing to file a certificate
12 of notice of the defendant's death with the court before which
13 the appeal is pending, and he or she shall promptly notify the
14 other parties and file a certificate of notice of the
15 defendant's death with the court before which the appeal is
16 pending.

17 (c) Upon the filing of the certificate under subsection (a)
18 or (b) of this Section, the court shall vacate the judgment and
19 sentence of the trial court and the cause shall be forever
20 abated.

21 (725 ILCS 5/121A-3 new)

22 Sec. 121A-3. Pending appeal by the defendant after the
23 defendant's death.

24 (a) Whenever the prosecuting attorney learns of the death
25 of the defendant on appeal of a criminal case by the defendant,

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

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

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

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

1 (1) the entry of an order affirming the decision of the
2 trial court, the intervenor may continue to pursue the
3 appeal on the behalf of the defendant or seek
4 post-conviction relief to the extent that further
5 appellate or post-conviction relief would have been
6 available to the defendant were he or she still alive;

7 (2) a finding of error by the court resulting in the
8 reversal of a defendant's conviction, the court shall
9 vacate the judgment and sentence of the trial court and the
10 cause shall be forever abated; or

11 (3) a finding of error which would require the trial
12 court to resentence the defendant, but does not require
13 reversal of the defendant's sentence, the court shall
14 vacate the sentence imposed by the trial court and the
15 conviction shall stand.

16 (e) If no petition for leave of the court to intervene is
17 filed under subsection (d) of this Section, the court shall
18 dismiss the appeal without disturbing the decision of the trial
19 court or sentence it imposed."