

By: Reynolds

H.B. No. 854

A BILL TO BE ENTITLED

AN ACT

relating to the appointment by the attorney general of a special prosecutor to prosecute certain offenses that are committed by certain peace officers and that result in serious bodily injury or death.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.081 to read as follows:

Art. 2.081. APPOINTMENT OF SPECIAL PROSECUTOR FOR OFFICER-INVOLVED INJURIES OR DEATHS. (a) In this article:

(1) "Local law enforcement agency" means an agency of a political subdivision of the state authorized by law to employ peace officers.

(2) "Officer-involved injury or death" means any serious bodily injury or death caused by a peace officer acting under the authority of a political subdivision of the state.

(3) "Prosecuting attorney" means a district attorney, criminal district attorney, or county attorney.

(4) "Serious bodily injury" has the meaning assigned by Section 1.07, Penal Code.

(b) With respect to any offense arising out of an officer-involved injury or death, a prosecuting attorney is disqualified from prosecuting a peace officer who is employed by a political subdivision of this state that is also served by the

1 attorney.

2 (c) As soon as practicable after an officer-involved injury
3 or death, the local law enforcement agency employing the peace
4 officer or officers involved shall report the incident to the
5 attorney general.

6 (d) Notwithstanding Article 2.07(a), the attorney general
7 shall appoint a special prosecutor to perform the duties of a
8 prosecuting attorney in a case for which the prosecuting attorney
9 is disqualified under Subsection (b). Except as provided by
10 Subsection (e), the special prosecutor must be a duly elected
11 prosecuting attorney for a county that is adjacent to the county
12 served by the prosecuting attorney who is disqualified under
13 Subsection (b) from prosecuting the offense arising out of an
14 officer-involved injury or death.

15 (e) A duly elected prosecuting attorney appointed as
16 special prosecutor under Subsection (d) may decline the appointment
17 by providing written notice to the attorney general stating why it
18 is impracticable for the attorney to prosecute the case. If each
19 duly elected prosecuting attorney described by Subsection (d)
20 declines the appointment as permitted by this subsection, the
21 attorney general may appoint as special prosecutor any duly elected
22 prosecuting attorney who is not otherwise disqualified from
23 prosecuting the offense arising out of an officer-involved injury
24 or death.

25 (f) A local law enforcement agency that submits a report
26 under Subsection (c) shall cooperate with the special prosecutor
27 appointed by the attorney general under this article in the

1 prosecution of any offense arising out of an officer-involved
2 injury or death.

3 SECTION 2. (a) Not later than January 1, 2018, each local
4 law enforcement agency shall comply with the requirements under
5 Article 2.081, Code of Criminal Procedure, as added by this Act.

6 (b) Article 2.081, Code of Criminal Procedure, as added by
7 this Act, applies only to the prosecution of an offense arising out
8 of an officer-involved injury or death commencing on or after
9 January 1, 2018. The prosecution of an offense arising out of an
10 officer-involved injury or death commencing before January 1, 2018,
11 is governed by the law in effect on the date the prosecution
12 commenced, and the former law is continued in effect for that
13 purpose. For purposes of this subsection, "officer-involved injury
14 or death" has the meaning assigned by Article 2.081(a), Code of
15 Criminal Procedure, as added by this Act.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.