86R2629 KJE-F

By:  Reynolds H.B. No. 215

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 attorney.

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

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

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

(f)  A local law enforcement agency that submits a report under Subsection (c) shall cooperate with the special prosecutor appointed by the attorney general under this article in the prosecution of any offense arising out of an officer-involved injury or death.

SECTION 2.  (a)  Not later than February 1, 2020, each local law enforcement agency shall comply with the requirements under Article 2.081, Code of Criminal Procedure, as added by this Act.

(b)  Article 2.081, Code of Criminal Procedure, as added by this Act, applies only to the prosecution of an offense arising out of an officer-involved injury or death commencing on or after February 1, 2020. The prosecution of an offense arising out of an officer-involved injury or death commencing before February 1, 2020, is governed by the law in effect on the date the prosecution commenced, and the former law is continued in effect for that purpose. For purposes of this subsection, "officer-involved injury or death" has the meaning assigned by Article 2.081(a), Code of Criminal Procedure, as added by this Act.

SECTION 3.  This Act takes effect January 1, 2020, but only if the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, requiring the attorney general to appoint a special prosecutor to prosecute certain offenses that are committed by peace officers is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.