

By: Reynolds

H.B. No. 715

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the appointment by the attorney general of a special  
3 prosecutor to prosecute certain offenses that are committed by  
4 certain peace officers and that result in serious bodily injury or  
5 death.

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

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

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

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

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

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

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

21 (b) With respect to any offense arising out of an  
22 officer-involved injury or death, a prosecuting attorney is  
23 disqualified from prosecuting a peace officer who is employed by a  
24 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 February 1, 2022, 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 February 1, 2022. The prosecution of an offense arising out of an  
10 officer-involved injury or death commencing before February 1,  
11 2022, 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 January 1, 2022, but only  
17 if the constitutional amendment proposed by the 87th Legislature,  
18 Regular Session, 2021, requiring the attorney general to appoint a  
19 special prosecutor to prosecute certain offenses that are committed  
20 by peace officers is approved by the voters. If that amendment is  
21 not approved by the voters, this Act has no effect.