



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Dan DeSantis

S.B. 83

132nd General Assembly
(As Introduced)

Sens. Williams, Thomas

BILL SUMMARY

- Requires the Attorney General to investigate the death of an unarmed person caused by a peace officer engaged in the course of the officer's duties.
 - Authorizes the Attorney General to investigate a death caused by a peace officer if there is a significant question as to whether the deceased person was armed and dangerous at the time of the action that resulted in the person's death.
 - Establishes the Attorney General's duties and authority for investigating and prosecuting cases relating to the death of a person caused by a peace officer.
-

CONTENTS and OPERATIONS

Investigation authority of the Attorney General

The bill requires the Attorney General to investigate the death of an unarmed person caused by a peace officer¹ when the peace officer was engaged in official duties, regardless of whether the person was in detention² at the time. The bill also authorizes the Attorney General to investigate a death caused by a peace officer if the Attorney General believes that there is a significant question as to whether the person, was armed and dangerous at the time of the action resulting in the person's death.³ In either case, the bill establishes the mandatory parameters and authority of the Attorney General in such investigations.

¹ "Peace officer" has the same meaning as in R.C. 109.71, not in the bill.

² "Detention" has the same meaning as provided in the Criminal Code. R.C. 2921.01, not in the bill.

³ R.C. 109.021(B)(1).

The bill requires the investigation to be a full, reasoned, and independent investigation that includes gathering and analyzing evidence, conducting witness interviews, and reviewing investigative reports, scientific evidence, and audio and video recording.⁴

Exclusive supervision and control

The bill states that the Attorney General has exclusive supervision and control of all investigations conducted under the bill. In conducting an investigation, the Attorney General, any assistant Attorney General, or special counsel designated by the Attorney General has all rights, privileges, powers, and duties of a prosecutor, including the power to issue subpoenas and subpoenas duces tecum, to compel the attendance of witnesses, and to compel the production of relevant records. If a person fails to comply with a subpoena or subpoena duces tecum, the Attorney General, assistant Attorney General, or special counsel may apply to the Franklin County Court of Common Pleas or the common pleas court of any county in which an element of the crime occurred for a contempt order.⁵

The Attorney General's authority to conduct an investigation under the bill and to prosecute related crimes supersedes the authority of any other prosecutor to investigate the death and prosecute related crimes. The bill states that a prosecutor has only those powers and duties designated by the Attorney General.⁶

Prosecutorial authority

The bill requires the Attorney General to refer evidence to a grand jury or special grand jury under existing law when the investigation suggests that a prosecution is warranted. The Attorney General, any assistant Attorney General, or special counsel may appear at any time before the grand jury to give information relative to a legal matter or to provide advice on a legal matter when required. The Attorney General, any assistant Attorney General, or special counsel has and may exercise all rights, privileges, and powers of a prosecutor in these cases.⁷

If an indictment is returned by a grand jury under the Attorney General's referral, the Attorney General has sole responsibility to prosecute the case. When

⁴ R.C. 109.021(B)(2).

⁵ R.C. 109.021(B)(3).

⁶ R.C. 109.021(E).

⁷ R.C. 109.021(C).



prosecuting the case, the Attorney General, any assistant Attorney General, or special counsel has all rights, privileges, duties, and powers of a prosecutor.⁸

Report

The Attorney General must provide a report to the Governor or Governor's designee if either of the following applies: (a) the Attorney General declines to refer evidence to a grand jury regarding a death investigated under the bill, or (b) a grand jury declines to return an indictment on evidence referred to the grand jury under the bill. The report must include, to the extent possible and lawful, an explanation of the outcome of the investigation and any resulting recommendations for systemic reform.⁹

HISTORY

ACTION	DATE
Introduced	03-02-17

S0083-I-132.docx/ts

⁸ R.C. 109.021(D).

⁹ R.C. 109.021(F).

