

2018 Regular Session

HOUSE BILL NO. 834

BY REPRESENTATIVES MARCELLE AND HUNTER

LAW ENFORCE/OFFICERS: Provides for the prosecution of officer-involved incidents

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 382(A) and to enact Code of
3 Criminal Procedure Article 382(C) and R.S. 49:260, relative to prosecution of
4 officer-involved incidents; to provide relative to law enforcement; to provide for
5 reporting requirements; to provide for powers and duties of the attorney general; to
6 provide with respect to the initiation of criminal prosecution in certain
7 circumstances; to provide definitions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 382(A) is hereby amended and
10 reenacted and Code of Criminal Procedure Article 382(C) is hereby enacted as follows:

11 Art. 382. Methods of instituting criminal prosecutions

12 A. A prosecution for an offense punishable by death, or for an offense
13 punishable by life imprisonment, shall be instituted by indictment by a grand jury.
14 ~~Other~~ Except as provided for in Paragraph C of this Article, other criminal
15 prosecutions in a district court shall be instituted by indictment or by information.

16 * * *

17 C. A prosecution of an officer-involved incident as provided for in R.S.
18 49:260 shall be instituted by indictment by a grand jury.

1 Section 2. R.S. 49:260 is hereby enacted to read as follows:

2 §260. Officer-involved incidents; special procedures

3 A. A law enforcement agency that employs a peace officer who is involved
4 in an officer-involved incident shall report the incident to the district court with
5 jurisdiction over the matter within seventy-two hours following the officer-involved
6 incident.

7 B. The court shall refer the matter to either:

8 (1) The office of the district attorney where the incident occurred. If the
9 district attorney elects to prosecute the incident, he shall seek an indictment from the
10 grand jury pursuant to Code of Criminal Procedure Article 382(C).

11 (2) The attorney general, and the matter shall be deemed to constitute
12 "cause" for purposes of Article IV, Section 8 of the Louisiana Constitution. Pursuant
13 to such authority, the attorney general shall do either of the following:

14 (a) Institute, prosecute, or intervene in the criminal proceeding involving an
15 officer-involved incident.

16 (b) Appoint a special prosecutor for the criminal proceeding involving an
17 officer-involved incident to perform the duties of the district attorney who would
18 have otherwise had charge of the prosecution pursuant to Article V, Section 26 of the
19 Louisiana Constitution.

20 C. For purposes of this Section, the following terms shall have the following
21 meanings:

22 (1) "Officer-involved incident" means any incident in which serious bodily
23 injury or death of another individual is caused by a peace officer acting under the
24 authority of the state or a political subdivision of the state.

25 (2) "Serious bodily injury" means bodily injury which involves
26 unconsciousness, extreme physical pain or protracted and obvious disfigurement, or
27 protracted loss or impairment of the function of a bodily member, organ, or mental
28 faculty, or a substantial risk of death.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 834 Original

2018 Regular Session

Marcelle

Abstract: Provides for special prosecution procedures in officer-involved incidents which cause serious bodily injury or death to another individual.

Present law provides for the initiation of criminal proceedings through a bill of information or grand jury indictment at the discretion of the district attorney.

Proposed law provides that in officer-involved incidents, prosecution may only be initiated by grand jury indictment.

Present constitution (Art. IV, §8) authorizes the attorney general to intervene in criminal proceedings in certain circumstances.

Proposed law requires law enforcement agencies to report officer-involved incidents to the district court with jurisdiction within 72 hours of the incident. The court shall refer the matter to the attorney general, and the attorney general shall either: (1) institute, prosecute, or intervene in the criminal proceeding involving an officer-involved incident, or (2) appoint a special prosecutor to perform the duties of the district attorney who would have otherwise had charge of the prosecution.

Proposed law defines "officer-involved incidents" and "serious bodily injury".

(Amends C.Cr.P. Art. 382(A); Adds C.Cr.P. Art. 382(C) and R.S. 49:260)