

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Jeff Rhoades, Counsel**Meeting Dates:** 3/19

WHAT THE MEASURE DOES: Directs law enforcement agency to notify Attorney General within twenty four hours when officer's use of deadly force causes death of person. Requires Attorney General to appoint special prosecutor from outside of county where death occurred to lead investigation. Directs special prosecutor to file information and utilize preliminary hearing upon determination that use of deadly force constitutes crime punishable as felony. Categorizes family members of decedent as victims under statute. Prescribes penalty for law enforcement failure to cooperate with investigation.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:** No amendment

BACKGROUND: Senate Bill 871 creates a new statutory scheme for the use of deadly force by police officers. The bill applies to situations where the use of deadly force during the course of an officer's official duties is the cause in fact of the death of a person. Currently, such investigations are led by the district attorney's office having jurisdiction over the county where the act occurred. The cases are brought before a grand jury for a determination of whether criminal charges are to be filed against the officer.

Senate Bill 871 addresses the concerns of collusion and secrecy in such proceedings. The bill states that the law enforcement agency must notify the Attorney General within twenty four hours when the use of deadly force is the cause in fact of the death of a person. The Attorney General shall appoint a special prosecutor to lead the investigation from outside of the county where the act occurred. Such an appointment avoids any potential bias in a prosecution effort. Additionally, the bill clarifies that failure to fully cooperate with the investigation may result either in the Attorney General prosecuting for obstructing the investigation or a subsequent civil action. Should criminal charges be warranted, the bill mandates the use of a preliminary hearing in lieu of a grand jury proceeding. This is meant to create transparency in the process through public record and judicial oversight. Lastly, the bill makes clear that victims of the decedent are to be considered victims for the purposes of a criminal prosecution. Such a provision ensures that family members are given certain victim's rights, including the right to prompt restitution from the individual who caused the harm.