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FISCAL IMPACT REPORT

ORIGINAL DATE 3/03/17
SPONSOR Chasey **LAST UPDATED** _____ **HB** 510

SHORT TITLE Officer Serious Use of Force Investigation **SB** _____

ANALYST Rogers

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
\$0.0	\$1,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	\$1,000.0	\$1,000.0	Recurring	Peace Officer Serious Use of Force Investigation and Prosecution Fund
\$0.0	(\$1,000.0)	(\$1,000.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$1,000.0	\$1,000.0	\$2,000.0	Recurring	Peace Officer Serious Use of Force Investigation and Prosecution Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 214 and SB 450.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (OAG)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

HB 510 would create a procedural process that must be followed in cases where a peace officer, through the use of force, caused the death of another person. Upon a peace officer causing the death of another through the use of force, the peace officer's agency shall notify the district attorney whose jurisdiction it took place in.

Upon being notified, as soon as possible, the district attorney shall determine if there is a conflict or not. If no conflict exists, the district attorney shall investigate and make a determination if the peace officer's use of force was justified. If it was not, HB 510 mandates the peace officer be prosecuted.

If the district attorney determines a conflict exists, the district attorney shall notify the attorney general, who shall appoint three district attorneys, who will then appoint a special prosecutor, to investigate the use of force and, if appropriate, prosecute the peace officer.

HB 510 also provides a funding mechanism to assist the local district attorney with funding if this procedure is triggered.

FISCAL IMPLICATIONS

The bill makes a recurring \$1 million appropriation from the general fund to the Peace Officer Serious Use of Force Investigation and Prosecution Fund. By making an appropriation from the general fund, the general fund is negatively impacted by \$1 million.

The bill creates a new fund, the Peace Officer Serious Use of Force Investigation and Prosecution Fund, to be administered by the Administrative Office of the District Attorney (AODA) for use when AODA carries out cases pursuant to the bill. The fund is nonreverting. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The AOC explains there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

No other judicial branch agencies provided a fiscal impact analysis.

SIGNIFICANT ISSUES

The OAG explains it is unclear as to whether HB 510 removes the discretion to prosecute of the elected District Attorney in a situation where a conflict of interest does not exist.

The AOC states HB 510, Section 4(B) requires a DA to prosecute a peace officer if the DA determines that the serious use of force was not justified. Section 4(C) requires the special prosecutor to prosecute the involved peace officer "if appropriate." If the intent is to provide the

same standard for a special prosecutor as a DA in deciding whether to prosecute, it may be best for that standard to be spelled out so as not to create confusion for a special prosecutor in deciding whether to prosecute.

ADMINISTRATIVE IMPLICATIONS

The OAG will have additional responsibilities under HB 510 to review and appoint district attorneys to appoint special prosecutors in instances when a conflict of interest is present.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 214 and SB 450.

TR/sb