

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 258

Senators Williams, Tavares

A BILL

To enact section 109.021 of the Revised Code to 1
establish the duties and authority of the 2
Attorney General to investigate and prosecute 3
cases relating to the death of a person caused 4
by a peace officer. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 109.021 of the Revised Code be 6
enacted to read as follows: 7

Sec. 109.021. (A) As used in this section: 8

(1) "Detention" has the same meaning as in section 2921.01 9
of the Revised Code. 10

(2) "Peace officer" has the same meaning as in section 11
109.71 of the Revised Code. 12

(3) "Prosecutor" means the county prosecuting attorney, 13
city director of law, village solicitor, or similar chief legal 14
officer, who has the authority to prosecute a criminal case in 15
the court in which the case is filed. 16

(B) (1) The attorney general shall investigate the death of 17
an unarmed person caused by a peace officer engaged in the 18

officer's duties, regardless of whether the person was in 19
detention at the time of the action that resulted in the 20
person's death. If the attorney general believes that there is a 21
significant question as to whether a person, whose death was 22
caused by a peace officer, was armed and dangerous at the time 23
of the action that resulted in the person's death, the attorney 24
general may investigate the death of a person pursuant to this 25
section. 26

(2) The attorney general shall conduct a full, reasoned, 27
and independent investigation, including all of the following: 28

(a) Gathering and analyzing evidence; 29

(b) Conducting witness interviews; 30

(c) Reviewing investigative reports, scientific evidence, 31
and audio and video recording. 32

(3) The attorney general shall have exclusive supervision 33
and control of all investigations conducted under this section. 34
In conducting an investigation, the attorney general and any 35
assistant attorney general or special counsel designated by the 36
attorney general has all rights, privileges, powers, and duties 37
of a prosecuting attorney, including the power to issue 38
subpoenas and subpoenas duces tecum, to compel the attendance of 39
witnesses, and to compel the production of records and papers of 40
all kinds and descriptions that are relevant to the 41
investigation. Upon the failure of any person to comply with any 42
subpoena or subpoena duces tecum issued under this section, the 43
attorney general, assistant attorney general, or special counsel 44
may apply to the court of common pleas of Franklin county or of 45
any county in which an element of the crime occurred for a 46
contempt order. 47

(C) When it appears to the attorney general, as a result 48
of an investigation under division (B) of this section, that a 49
prosecution should be commenced, the attorney general shall 50
refer the evidence to a grand jury under sections 2939.01 to 51
2939.24 of the Revised Code or to a special grand jury under 52
section 2939.17 of the Revised Code. The attorney general and 53
any assistant attorney general or special counsel designated by 54
the attorney general may appear at any time before the grand 55
jury to give information relative to a legal matter or to advise 56
upon a legal matter when required. The attorney general and any 57
assistant attorney general or special counsel designated by the 58
attorney general shall have and may exercise all rights, 59
privileges, and powers of a prosecutor in such cases. 60

(D) If an indictment is returned by a grand jury pursuant 61
to a referral made under division (C) of this section, the 62
attorney general has sole responsibility to prosecute the case. 63
When prosecuting a case under this section, the attorney general 64
and any assistant attorney general or special counsel designated 65
by the attorney general has all rights, privileges, duties, and 66
powers of a prosecutor. 67

(E) The attorney general's authority to conduct an 68
investigation under division (B) (1) of this section and to 69
prosecute related crimes supersedes the authority of any other 70
prosecutor to investigate the death in these circumstances and 71
to prosecute related crimes. A prosecutor shall have only those 72
powers and duties designated by the attorney general. 73

(F) (1) The attorney general shall provide a report to the 74
governor or the governor's designee if either of the following 75
applies: 76

(a) The attorney general declines to refer evidence to a 77

<u>grand jury regarding a death investigated under this section;</u>	78
<u>(b) A grand jury declines to return an indictment on evidence referred to the grand jury under this section.</u>	79 80
<u>(2) A report required under division (F)(1) of this section shall include, to the extent possible and lawful, an explanation of the outcome of the investigation and any resulting recommendations for systemic reform.</u>	81 82 83 84