



Senate

General Assembly

File No. 486

January Session, 2021

Substitute Senate Bill No. 892

Senate, April 15, 2021

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE CRIMINAL JUSTICE COMMISSION,
DIVISION OF CRIMINAL JUSTICE AND THE OFFICE OF THE
INSPECTOR GENERAL.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-275a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) There is established a Criminal Justice Commission which shall be
4 composed of the Chief State's Attorney and six members nominated by
5 the Governor and appointed by the General Assembly in accordance
6 with [section 4-2] subsection (i) of this section, two of whom shall be
7 judges of the Superior Court.

8 (b) The chairman shall be appointed by the Governor.

9 (c) Members shall serve without compensation but shall be
10 reimbursed for actual expenses incurred while engaged in the duties of
11 the commission.

12 (d) The commission shall post notices concerning the time, date and
13 place of meetings of the commission on an Internet web site operated by
14 the commission.

15 (e) Any meeting of the commission held pursuant to section 51-278,
16 as amended by this act, or section 51-278b, the sole purpose of which is
17 to appoint, reappoint, remove or otherwise discipline the Chief State's
18 Attorney, a deputy chief state's attorney or a state's attorney, shall be
19 held in the Legislative Office Building and shall include an opportunity
20 for public testimony.

21 (f) The commission may adopt such rules as it deems necessary for
22 the conduct of its internal affairs.

23 (g) The commission may adopt regulations in accordance with
24 chapter 54 to carry out its responsibilities under this chapter.

25 (h) The commission shall be within the Division of Criminal Justice.
26 Said division shall provide staff support for the commission.

27 (i) Any appointed member serving on the commission on October 1,
28 2021, may continue to serve until the expiration of his or her term. On
29 and after October 1, 2021, each nomination for appointment to the
30 commission by the Governor shall be referred, without debate, to the
31 joint standing committee of the General Assembly having cognizance of
32 matters relating to the judiciary which shall report on each appointment
33 not later than thirty days after the date of reference. Each appointment
34 by the General Assembly of any such commission member shall be by
35 concurrent resolution.

36 Sec. 2. Subsection (b) of section 51-278 of the general statutes is
37 repealed and the following is substituted in lieu thereof (*Effective from*
38 *passage*):

39 (b) (1) (A) The Criminal Justice Commission shall appoint (i) two
40 deputy chief state's attorneys as assistant administrative heads of the
41 Division of Criminal Justice, one of whom shall be deputy chief state's
42 attorney for operations and one of whom shall be deputy chief state's

43 attorney for personnel, finance and administration, who shall assist the
44 Chief State's Attorney in his duties, and (ii) one deputy chief state's
45 attorney who shall be [nominated] appointed by the commission, as
46 provided in subdivision (8) of this subsection, to serve as Inspector
47 General in accordance with section 51-277e, as amended by this act, who
48 shall receive his or her prosecutorial powers as a designee of the Chief
49 State's Attorney. The term of office of a deputy chief state's attorney
50 shall be four years from July first in the year of appointment and until
51 the appointment and qualification of a successor unless sooner removed
52 by the Criminal Justice Commission. The Criminal Justice Commission
53 shall designate one deputy chief state's attorney appointed under
54 subparagraph (A)(i) of this subsection who shall, in the absence or
55 disqualification of the Chief State's Attorney, exercise the powers and
56 duties of the Chief State's Attorney until such Chief State's Attorney
57 resumes his duties. For the purposes of this subparagraph, the Criminal
58 Justice Commission means the members of the commission other than
59 the Chief State's Attorney. (B) The Criminal Justice Commission shall
60 appoint a state's attorney for each judicial district, who shall act therein
61 as attorney on behalf of the state. The Criminal Justice Commission shall
62 also appoint, from candidates recommended by the appropriate state's
63 attorney and deemed qualified by the commission, as many assistant
64 state's attorneys and deputy assistant state's attorneys on a full-time or
65 part-time basis for each judicial district as the criminal business of the
66 court, in the opinion of the Chief State's Attorney, may require, and the
67 commission shall also appoint, from candidates recommended by the
68 Chief State's Attorney and deemed qualified by the commission, as
69 many assistant state's attorneys and deputy assistant state's attorneys as
70 are necessary, in the opinion of the Chief State's Attorney, to assist the
71 Chief State's Attorney. Assistant state's attorneys and deputy assistant
72 state's attorneys, respectively, shall assist the state's attorneys for the
73 judicial districts and the Chief State's Attorney in all criminal matters
74 and, in the absence from the district or disability of the state's attorney
75 or at his request, shall have and exercise all the powers and perform all
76 the duties of state's attorney. At least three such assistant state's
77 attorneys or deputy assistant state's attorneys shall be designated by the

78 Chief State's Attorney to handle all prosecutions in the state of housing
79 matters deemed to be criminal. Any assistant or deputy assistant state's
80 attorney so designated should have a commitment to the maintenance
81 of decent, safe and sanitary housing and, to the extent practicable, shall
82 handle housing matters on a full-time basis. At least one assistant state's
83 attorney shall be designated by the Chief State's Attorney to handle all
84 prosecutions in the state of environmental matters deemed to be
85 criminal. Any assistant state's attorney so designated should have a
86 commitment to protecting the environment and, to the extent
87 practicable, shall handle environmental matters on a full-time basis. (C)
88 The Chief State's Attorney may promote any assistant state's attorney,
89 or deputy assistant state's attorney who assists him, and the appropriate
90 state's attorney may promote any assistant state's attorney or deputy
91 assistant state's attorney who assists such state's attorney in the judicial
92 district. The Chief State's Attorney shall notify the Criminal Justice
93 Commission of any such promotion.

94 (2) On and after July 1, 1985, the Chief State's Attorney, deputy chief
95 state's attorneys, state's attorneys, assistant state's attorneys and deputy
96 assistant state's attorneys shall receive salaries in accordance with a
97 compensation plan approved by the Department of Administrative
98 Services.

99 (3) Each state's attorney who, on June 30, 1973, was included in the
100 provisions of sections 51-49, 51-287 and 51-288 may elect to continue to
101 be so included and, each state's attorney, incumbent on July 1, 1978, who
102 was an assistant state's attorney, chief prosecuting attorney or deputy
103 chief prosecuting attorney on June 30, 1973, may elect to be included in
104 sections 51-49, 51-287 and 51-288, and, in each such case, the
105 Comptroller shall deduct from his salary five per cent thereof as
106 contributions for the purposes of sections 51-49, 51-287 and 51-288,
107 provided any person who has so elected may thereafter elect to
108 participate in chapter 66 and thereupon his past contributions to the
109 State's Attorneys' Retirement Fund shall be transferred to the State
110 Employees Retirement Fund and he shall be credited with all prior
111 service. All other persons appointed under the provisions of this section

112 shall be subject to the provisions of chapter 66.

113 (4) Each Chief State's Attorney, deputy chief state's attorney or state's
114 attorney who (A) is ineligible to elect under subdivision (3) of this
115 subsection, (B) is not subject to the provisions of chapter 66, and (C) had
116 vested under the State Employees Retirement Fund, prior to his
117 appointment to such office, shall vest under the State's Attorneys'
118 Retirement Fund upon reappointment to any such office by the Criminal
119 Justice Commission.

120 (5) The several state's attorneys shall each hold office for eight years
121 from July first and until the appointment and qualification of a successor
122 unless sooner removed for just cause by the Criminal Justice
123 Commission.

124 (6) When any vacancy in the office of the Chief State's Attorney or the
125 office of a state's attorney is to be filled, the commission shall make its
126 appointment from the various recommendations of the Chief State's
127 Attorney or the appropriate state's attorney. The commission shall
128 determine how many recommendations it shall require for each
129 appointment.

130 (7) Each deputy chief state's attorney and state's attorney incumbent
131 on the date of certification by the Secretary of the State of the
132 constitutional amendment concerning appointment of state's attorneys,
133 shall serve the term for which he had been appointed prior to said date.

134 (8) When any appointment of a deputy chief state's attorney to serve
135 as Inspector General in accordance with section 51-277e, as amended by
136 this act, is to be made, the commission shall make such appointment by
137 majority vote. In the event that there is a tie vote for such appointment,
138 the chairperson of the commission shall select the nominee from
139 amongst the candidates in the tie position and said candidate shall be
140 appointed to serve as Inspector General.

141 Sec. 3. Section 51-279a of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective October 1, 2021*):

143 The Division of Criminal Justice Advisory Board is established,
144 comprised of a nonvoting member designated by the Criminal Justice
145 Commission, the Chief State's Attorney or his designee and the state's
146 attorney for each judicial district or his designee. The board shall meet
147 at least once a month to advise on state-wide prosecutorial standards
148 and guidelines and other policy matters, including peer review and
149 resolution of conflicts. The board shall adopt such rules as it deems
150 necessary for the conduct of its internal affairs.

151 Sec. 4. Section 51-280 of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective October 1, 2021*):

153 The Chief State's Attorney and each state's attorney shall biennially
154 prepare a merit and performance rating for each state's attorney,
155 assistant state's attorney and deputy assistant state's attorney and shall
156 submit the biennial merit and performance rating conducted pursuant
157 to the policy of the Division of Criminal Justice for each state's attorney
158 to the Criminal Justice Commission for its consideration at the time for
159 reappointing such attorneys to any new term or terms. As part of any
160 such biennial merit and performance rating process, the commission
161 may call a state's attorney before the commission for questions
162 concerning any issue raised in a biennial merit and performance rating.

163 Sec. 5. Section 51-285 of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective October 1, 2021*):

165 (a) The Chief State's Attorney may [appoint] recommend to the
166 Criminal Justice Commission for appointment by said commission
167 special assistant state's attorneys, special deputy assistant state's
168 attorneys and special inspectors on a contractual basis for a temporary
169 period of time.

170 (b) Upon the request of the Attorney General, the Chief State's
171 Attorney may designate any attorney requested by the Attorney
172 General as a special assistant state's attorney to prosecute any criminal
173 offense, except violations of titles 9, 14, 18, 29, 46a, 53 and 53a, chapters
174 420b and 420c of title 21a and sections 17b-97 and 17b-99. If such

175 designation of any attorney is denied, the Chief State's Attorney shall
176 state the reasons for such denial in writing.

177 (c) The Chief State's Attorney may designate any assistant state's
178 attorney from the office of the Chief State's Attorney or any other
179 assistant state's attorney on request of the appropriate state's attorney
180 for appointment as a special assistant United States attorney to assist in
181 the investigation and prosecution of specific criminal matters in federal
182 court.

183 Sec. 6. Section 51-277e of the general statutes is repealed and the
184 following is substituted in lieu thereof (*Effective from passage*):

185 (a) There is established the Office of the Inspector General that shall
186 be [an independent] a separate office within the Division of Criminal
187 Justice. Not later than October 1, [2020] 2021, the Criminal Justice
188 Commission established pursuant to section 51-275a, as amended by
189 this act, shall [nominate] appoint a deputy chief state's attorney [from
190 within the division] as Inspector General who [, subject to appointment
191 by the General Assembly pursuant to subsection (c) or (d) of this
192 section,] shall lead the Office of the Inspector General. The office shall:
193 (1) Conduct investigations of peace officers in accordance with section
194 51-277a, as amended by this act; (2) prosecute any case in which the
195 Inspector General determines a peace officer used force found to not be
196 justifiable pursuant to section 53a-22 or where a police officer or
197 correctional officer fails to intervene in any such incident or to report
198 any such incident, as required under subsection (a) of section 7-282e or
199 section 18-81nn, as applicable; and (3) make recommendations to the
200 Police Officer Standards and Training Council established under section
201 7-294b concerning censure and suspension, renewal, cancelation or
202 revocation of a peace officer's certification.

203 (b) The Inspector General shall serve a term of four years [. On or
204 before the date of the expiration of the term of the Inspector General or
205 upon the occurrence of a vacancy in the Office of the Inspector General
206 for any reason, the Criminal Justice Commission shall nominate a
207 deputy chief state's attorney from within the Division of Criminal

208 Justice to fill that vacancy] from July first in the year of the appointment
209 unless sooner removed by the Criminal Justice Commission. The
210 commission shall not be precluded from [renominating] reappointing
211 an individual who has previously served as Inspector General. [The
212 Inspector General shall, upon nomination by the commission, be
213 appointed by the General Assembly pursuant to subsection (c) or (d) of
214 this section.]

215 [(c) Each nomination made by the Criminal Justice Commission to the
216 General Assembly for Inspector General shall be referred, without
217 debate, to the joint standing committee of the General Assembly having
218 cognizance of matters relating to the judiciary, which shall report on the
219 nomination not later than thirty legislative days from the time of
220 reference, but no later than seven legislative days before the adjourning
221 of the General Assembly. An appointment by the General Assembly of
222 an Inspector General shall be by concurrent resolution. The action on
223 the passage of each such resolution in the House and in the Senate shall
224 be by vote taken on the electrical roll-call device. The commission shall,
225 not later than five days after receiving notice that a nomination for
226 Inspector General has failed to be approved by the affirmative
227 concurrent action of both houses of the General Assembly, make
228 another nomination for Inspector General.

229 (d) No vacancy in the position of Inspector General shall be filled by
230 the Criminal Justice Commission when the General Assembly is not in
231 session unless, prior to such filling, the commission submits the name
232 of the proposed vacancy appointee to the joint standing committee of
233 the General Assembly having cognizance of matters relating to the
234 judiciary. Within forty-five days, the committee on the judiciary may,
235 upon the call of either chairman, hold a special meeting for the purpose
236 of approving or disapproving such proposed vacancy appointee by
237 majority vote. Failure of the committee to act on such proposed vacancy
238 appointee within such forty-five-day period shall be deemed to be an
239 approval. Any appointment made pursuant to this subsection shall be
240 in effect until the sixth Wednesday of the next regular session of the
241 General Assembly, and until a successor is appointed.

242 (e) A deputy chief state's attorney nominated for the position of
243 Inspector General by the Criminal Justice Commission shall serve as
244 interim Inspector General pending appointment by the General
245 Assembly.]

246 [(f)] (c) An Inspector General may be removed or otherwise
247 disciplined only in accordance with section 51-278b.

248 [(g)] (d) The Inspector General may issue subpoenas to
249 municipalities, law enforcement units, as defined in section 7-294, the
250 Department of Correction and any employee or former employee of the
251 municipality, unit or department (1) requiring the production of reports,
252 records or other documents concerning an investigation described in
253 subsection (a) of this section that is undertaken by the Inspector General,
254 and (2) compelling the attendance and testimony of any person having
255 knowledge pertinent to such investigation.

256 [(h)] (e) A chief of police of a municipality, the Commissioner of
257 Emergency Services and Public Protection or the Commissioner of
258 Correction may refer and the Inspector General shall accept any such
259 referral of an incident described in subsection (a) of this section for
260 purposes of an investigation.

261 [(i)] (f) The Office of the Inspector General shall be at a location that
262 is separate from the locations of the Office of the Chief State's Attorney
263 or any of the state's attorneys for the judicial districts.

264 [(j)] (g) The Inspector General may employ necessary staff to fulfil the
265 duties of the Office of the Inspector General described in subsection (a)
266 of this section. Such staff shall be selected [from staff of the Division of
267 Criminal Justice] by the Inspector General within the confines of any
268 existing collective bargaining agreement and shall include, but not be
269 limited to, an assistant state's attorney or a deputy assistant state's
270 attorney, an inspector and administrative staff. As needed by and upon
271 request of the Inspector General, the Office of the Chief State's Attorney
272 shall ensure assistance from additional assistant state's attorneys or
273 deputy assistant state's attorneys, inspectors and administrative staff.

274 [(k) The Inspector General and any staff employed by the Office of
275 the Inspector General, who is not in a bargaining unit established
276 pursuant to sections 5-270 to 5-280, inclusive, shall, upon completion of
277 employment with the office of the Inspector General be transferred back
278 to the Division of Criminal Justice into a position equivalent or
279 comparable to the position such person held in the division prior to
280 being employed by the Office of the Inspector General. Upon such
281 transfer back to the division, such person shall be compensated at the
282 same level such person was compensated immediately prior to being
283 transferred back to the division.]

284 Sec. 7. Section 51-277a of the general statutes is repealed and the
285 following is substituted in lieu thereof (*Effective from passage*):

286 (a) (1) Whenever a peace officer, in the performance of such officer's
287 duties, uses physical force upon another person and such person dies as
288 a result thereof or uses deadly force, as defined in section 53a-3, upon
289 another person, the [Inspector General shall investigate and determine]
290 Division of Criminal Justice shall cause an investigation to be made and
291 the Inspector General shall have the responsibility of determining
292 whether the use of physical force by the peace officer was justifiable
293 under section 53a-22.

294 (2) (A) Except as provided under subdivision (1) of this subsection,
295 whenever a person dies in the custody of a peace officer or law
296 enforcement agency, the Inspector General shall investigate and
297 determine whether physical force was used by a peace officer upon the
298 deceased person, and if so, whether the use of physical force by the
299 peace officer was justifiable under section 53a-22. If the Inspector
300 General determines the deceased person may have died as a result of [a
301 possible] criminal action not involving the use of force by a peace officer,
302 the Inspector General shall refer such case to the [Division of Criminal
303 Justice] Chief State's Attorney or state's attorney for potential
304 prosecution.

305 (B) Except as provided under subdivision (1) of this subsection or
306 subparagraph (A) of subdivision (2) of this subsection, whenever a

307 person dies in the custody of the Commissioner of Correction, the
308 Inspector General shall investigate and determine whether the deceased
309 person may have died as a result of [a possible] criminal action, and, if
310 so, refer such case to the [Division of Criminal Justice] Chief State's
311 Attorney or state's attorney for potential prosecution.

312 (3) The Inspector General shall request the appropriate law
313 enforcement agency to provide such assistance as is necessary to
314 [determine the circumstances of an incident investigated] investigate
315 and make a determination under subdivision (1) or (2) of this
316 subsection.

317 (4) Whenever a peace officer, in the performance of such officer's
318 duties, uses physical force or deadly force upon another person and
319 such person dies as a result thereof, the Inspector General shall complete
320 a preliminary status report that shall include, but need not be limited to,
321 (A) the name of the deceased person, (B) the gender, race, ethnicity and
322 age of the deceased person, (C) the date, time and location of the injury
323 causing such death, (D) the law enforcement agency involved, (E) the
324 status on the toxicology report, if available, and (F) the death certificate,
325 if available. The Inspector General shall complete the report and submit
326 a copy of such report not later than five business days after the cause of
327 the death is available to the Chief State's Attorney and, in accordance
328 with the provisions of section 11-4a, to the joint standing committees of
329 the General Assembly having cognizance of matters relating to the
330 judiciary and public safety.

331 (b) Upon the conclusion of the investigation of the incident, the
332 Inspector General shall file a report with the Chief State's Attorney
333 which shall contain the following: (1) The circumstances of the incident,
334 (2) a determination of whether the use of physical force by the peace
335 officer was justifiable under section 53a-22, and (3) any recommended
336 future action to be taken by the Office of the Inspector General as a result
337 of the incident. The Chief State's Attorney shall provide a copy of the
338 report to the chief executive officer of the municipality in which the
339 incident occurred and to the Commissioner of Emergency Services and

340 Public Protection or the chief of police of such municipality, as the case
 341 may be, and shall make such report available to the public on the
 342 Division of Criminal Justice's Internet web site not later than forty-eight
 343 hours after the copies are provided to the chief executive officer and the
 344 commissioner or chief of police.

345 (c) The Office of the Inspector General shall prosecute any case in
 346 which the Inspector General determines that (1) the use of force by a
 347 peace officer was not justifiable under section 53a-22, [and any] or (2)
 348 there was a failure to intervene in [any] such incident or to report any
 349 such incident, as required under subsection (a) of section 7-282e or
 350 section 18-81nn.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	51-275a
Sec. 2	<i>from passage</i>	51-278(b)
Sec. 3	<i>October 1, 2021</i>	51-279a
Sec. 4	<i>October 1, 2021</i>	51-280
Sec. 5	<i>October 1, 2021</i>	51-285
Sec. 6	<i>from passage</i>	51-277e
Sec. 7	<i>from passage</i>	51-277a

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes procedural and technical changes to the Office of the Inspector General and does not result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 892*****AN ACT CONCERNING THE CRIMINAL JUSTICE COMMISSION,
DIVISION OF CRIMINAL JUSTICE AND THE OFFICE OF THE
INSPECTOR GENERAL.*****SUMMARY**

This bill amends the process for nominating the inspector general and restructures the Office of the Inspector General (OIG) by making it a separate, rather than an independent, office within the Division of Criminal Justice (DCJ). By law, the inspector general investigates peace officers' use of force and prosecutes cases to determine whether use of force was justified. The bill requires the Criminal Justice Commission (CJC, see BACKGROUND) to appoint, rather than nominate, one deputy chief state's attorney to serve as inspector general and eliminates General Assembly confirmation.

The bill amends the process for nominating CJC members by requiring a referral to the Judiciary Committee rather than the Executive and Legislative Nominations Committee. It also gives CJC more oversight of DCJ by, among other things,

1. requiring the chief state's attorney to notify CJC whenever there are certain promotions;
2. allowing CJC to determine how many DCJ recommendations it must receive for each attorney appointment vacancy;
3. adding a nonvoting member, that the CJC designates, to the Division of Criminal Justice Advisory Board;
4. allowing CJC to call state's attorneys before the commission for questions related to their merit and performance rating; and

5. amending how special state's attorneys and prosecutors are appointed.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2021, except the provisions on the inspector general, promotions, and vacancies are effective upon passage.

INSPECTOR GENERAL

PA 20-1, July Special Session, §§ 33 & 46, established OIG as an independent office within DCJ to, among other things, investigate peace officers' use of force and prosecute cases to determine whether use of force was justified.

Appointment

Under the bill, CJC must appoint, rather than nominate, one deputy chief state's attorney to serve as inspector general, who receives his or her prosecutorial authority as the chief state's attorney's designee. Under current law, the commission nominates, and the General Assembly confirms, the inspector general. The bill eliminates the requirement for General Assembly confirmation.

Under the bill, CJC must make the inspector general appointment by majority vote. If there is a tie, the commission chairperson must select the nominee from the candidates who are tied. The bill requires the commission to make this appointment by October 1, 2021.

The bill specifies that the inspector general's term begins July 1 in the year he or she is appointed. It lasts for four years, unless the commission removes him or her sooner.

OIG

The bill amends the structure of OIG, by making it a separate, rather than an independent, office within DCJ. As under existing law, OIG must be at a location separate from the Office of the Chief State's Attorney or any of the state's attorneys for the judicial districts.

Under the bill, the inspector general may employ necessary staff from within the confines of any existing collective bargaining agreements. Current law requires the inspector general to select staff only from DCJ staff.

The bill also eliminates the requirement that the inspector general and any OIG staff not in a state employee bargaining unit must be transferred back to DCJ upon completing employment with OIG.

Use of Force Investigations

Current law requires the inspector general to investigate and determine whether a peace officer's use of force was justified. The bill instead requires DCJ to cause the investigation to be made and the inspector general to determine whether the use of force was justified.

Investigation or Prosecution Standard

Under current law, the inspector general must investigate and determine whether a deceased person died as a result of criminal action while in the custody of a peace officer, law enforcement agency, or the Department of Correction. The bill instead requires this if the person may have died as a result of criminal action while in custody.

Under current law, the inspector general must request law enforcement assistance when needed to determine the circumstances of an incident. The bill instead requires the inspector general to seek assistance when needed to investigate and make a determination about an incident (i.e., a peace officer's deadly use of force or when someone dies in custody).

Preliminary Status Report

By law, the inspector general must complete a preliminary status report when officers use physical force that caused another's death. The bill also requires the inspector general to complete a preliminary status report when officers use deadly force on another. As under existing law, the report must include the:

1. deceased person's name, gender, race, ethnicity and age;

2. date, time, and location of the injury causing the death;
3. law enforcement agency involved;
4. toxicology report status, if available; and
5. death certificate, if available.

Current law requires the report to be submit to the Judiciary and Public Safety and Security committees within five business days after the cause of death is available. The bill specifies that the deadline is five business days after this information is available to the chief state's attorney.

Final Report

Under existing law, the inspector general must file a report with the chief state's attorney at the conclusion of the investigation that includes, among other things, any future action OIG will take as a result of the incident. The bill narrows this to any recommended future action for OIG to take.

CRIMINAL JUSTICE COMMISSION

Nominations to Judiciary Committee

Beginning October 1, 2021, the bill requires each of the governor's CJC member nominations to be referred, without debate, to the Judiciary Committee instead of the Executive and Legislative Nominations Committee. The Judiciary Committee must report on each appointment within 30 days after the referral. Each General Assembly appointment of a CJC member must be by concurrent resolution.

Under the bill, any member serving on the commission on October 1, 2021, may continue to serve until his or her term expires.

Promotions

By law, the chief state's attorney may promote any assistant state's attorney or deputy assistant state's attorney who assists him. The appropriate state's attorney also may promote any assistant state's attorney or deputy assistant state's attorney who assists him or her in

the judicial district. The bill requires the chief state's attorney to notify CJC of any of these promotions.

Vacancies

By law, when there is a vacancy within the Chief State's Attorney's Office or the office of a state's attorney, CJC must make an appointment from various recommendations from these offices. The bill requires CJC to determine how many recommendations it must require for each attorney appointment vacancy.

Division of Criminal Justice Advisory Board

The bill adds a nonvoting member the CJC designates to the Division of Criminal Justice Advisory Board. The board already includes the chief state's attorney or his designee and the state's attorney for each judicial district, or each attorney's designee. By law, the board must meet at least once a month to advise on statewide prosecutorial standards and guidelines and other policy matters, including peer review and conflict resolutions.

Merit and Performance Rating

The bill requires that each state's attorney's merit and performance rating occur biennially and be conducted pursuant to the Division of Criminal Justice policy. Current law does not specify the frequency of the ratings. As under existing law, the chief state's attorney or the state's attorney preparing a rating must submit it to CJC for its consideration when reappointing an attorney to a new term.

The bill also allows CJC to call a state's attorney before the commission for questions related to any issue raised in a biennial merit and performance rating.

Special State's Attorneys and Prosecutors

Under current law, the chief state's attorney may appoint special assistant state's attorneys, special deputy assistant state's attorneys, and special inspectors on a contractual basis for a temporary period of time. But under the bill, the chief state's attorney instead may recommend to

CJC that it appoint these attorneys.

BACKGROUND

Criminal Justice Commission

The state constitution (art. IV, § 27) establishes the Criminal Justice Commission and charges it with appointing a state's attorney for each judicial district and other attorneys as prescribed by law. It consists of seven members: the chief state's attorney and six members appointed by the governor and confirmed by the General Assembly. Two of the appointed members must be Superior Court judges.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 0 (03/29/2021)