

HF9064 - 0 - AG Prosecutor for Peace Officer-Involved Deaths

Chief Author: **Unknown Author**
 Committee: **Public Safety and Criminal Justice Reform Finance & Policy Division**
 Date Completed: **6/11/2020 3:38:15 PM**
 Agency: **Attorney General**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	1,636	1,636	1,636	1,636
Total	-	-	1,636	1,636	1,636	1,636
Biennial Total			1,636			3,272

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	9	9	9
Total	-	-	9	9	9

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2019	FY2020	FY2021	FY2022	FY2023
General Fund	-	-	-	1,636	1,636	1,636
Total		-	-	1,636	1,636	1,636
Biennial Total				1,636		3,272
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	-	1,636	1,636	1,636
Total		-	-	1,636	1,636	1,636
Biennial Total				1,636		3,272
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

HF9064 amends Minn. Stat. § 8.01, adding § 8.37 to provide that the Attorney General has charge of the prosecution of peace officers alleged to have caused an officer-involved death in the course of their duties. It further requires local law enforcement to cooperate with the Attorney General in the investigation and prosecution.

Assumptions

There has been documented 117 cases of an officer-involved deadly force encounters since 2010, averaging about 11-12 per year, with 13 cases in 2018 and 14 cases in 2019. In the last 4 years, there have been 3 officers prosecuted in the State of Minnesota for causing a death in the line of duty. For the purpose of this fiscal note, the AGO is estimating we'd review 10 cases per year. It's unknown how many of those would advance to trial.

Upon investigation, transparency to the public demands a meticulous review of all the relevant evidence, including body-cam, squad and surveillance video, witness statements and witness cell phones, including social media evidence, as well as disciplinary records. The public also demands an expeditious decision, however discovery in the investigation and prosecution will be voluminous. Attorneys will spend time reviewing and coordinating the investigations and make charging decisions. Police officers are often represented by private counsel, who utilize expert witnesses. Consultation with medical experts and use-of-force experts will also likely be required. For cases in which charges are filed, attorneys will spend time prosecuting the charges, and handle any appeal where a conviction resulted. For cases in which charges are not filed, attorneys may spend time advising the POST Board and the Law Enforcement Agency in possible disciplinary action if necessary.

HF9064 does not require county attorney assistance, although a county attorney may assist if requested by the Attorney General. There is no provision that requires the county attorney to share in the fiscal responsibility of the prosecution, including the sharing of any expert witness fees or travel-related costs.

HF9064 would significantly impact the ability of the Attorney General's Office to provide legal services to individual counties in the prosecution of other cases referred for prosecution without additional resources and staff.

Expenditure and/or Revenue Formula

In review of the last 14 cases handled by the Criminal Trial Division at the AGO, which are typically homicides, attorneys averaged 557 hours/case for a total of 7798 hours. Legal assistants averaged 759 hours/case for a total of 10,630 hours.

Assuming 10 equivalent reviews of officer-related deaths a year, the AGO would require an additional 4 FTE attorneys and 5 FTE legal assistants. 1 FTE attorney is at a cost of \$199,500. 1 FTE legal assistant is at a cost of \$127,500.

Because of the technical nature of the cases to be reviewed, the use of expert witnesses is likely necessary in both the review and prosecution if charges are filed. An expert witness has an average cost of \$20,000. Some cases may need more than one expert, and some may need none. With an assumption of 10 cases reviewed each year, it's expected the AGO will need 10 expert witnesses for \$200,000 annually.

Long-Term Fiscal Considerations

The appropriation in HF 9064 is a base appropriation to the Attorney General's base budget.

Local Fiscal Impact

References/Sources

AGO staff
Star Tribune article, May 31, 2020 "Every police-involved death in Minnesota since 2000"

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