

SENATE BILL NO. 37—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Government Affairs

SUMMARY—Revises certain provisions relating to the process by which a district attorney may request assistance in criminal cases from the Office of the Attorney General. (BDR 18-411)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to district attorneys; revising certain provisions relating to the process by which a district attorney may request assistance in criminal cases from the Office of the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a district attorney to request the personal presence of the Attorney General or the presence of a deputy attorney general or special investigator to provide assistance in the presentation of criminal cases. In such cases, the district attorney is required to first present the reasons for the request to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request. (NRS 228.130) This bill, instead, only requires the district attorney to present the reasons for such a request for assistance to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request if the Attorney General intends to seek reimbursement for any expenses incurred in providing assistance to the district attorney.

Existing law provides that in all criminal cases where assistance is requested from the Office of the Attorney General, the board of county commissioners, upon the verification of expenses incurred by the Office of the Attorney General, is required to pay from the general funds of the county to the Office of the Attorney General the traveling expenses of the Attorney General or his or her deputy attorney general or special investigator from Carson City, Nevada, to the location of the proceedings and for the return travel from that location to Carson City as well as the expenses incurred for board and lodging from the date such person leaves Carson City to the time he or she returns. (NRS 228.130) This bill:



(1) clarifies that such expenses will only be paid in criminal cases for which the Office of the Attorney General will seek reimbursement of expenses for its assistance; and (2) changes Carson City, Nevada, to the Office of the Attorney General as the point of origin and return for the reimbursement of such expenses.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 228.130 is hereby amended to read as follows:
228.130 1. ~~[In all criminal cases where, in the judgment of the]~~ A district attorney ~~[, the personal presence]~~ *may request the Office* of the Attorney General ~~[for the presence of a deputy attorney general or special investigator is required in cases mentioned in subsection 2, before making a request upon the Attorney General for such assistance]~~ *to provide assistance in presenting a criminal case before a committing magistrate, grand jury or district court. Before the Office of the Attorney General may provide such assistance, the Office of the Attorney General must inform the district attorney whether the Office of the Attorney General will request reimbursement for any expenses authorized pursuant to this section and incurred in providing the assistance. If the Office of the Attorney General will request reimbursement for any such expenses,* the district attorney must ~~[first]~~ *, before the Office of the Attorney General provides such assistance,* present his or her reasons for making the request to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request ~~[to]~~ *for the Office of the Attorney General* ~~[,]~~ *to provide assistance to the district attorney in the criminal case.*

2. ~~[In all criminal cases where assistance is requested from the Attorney General's Office, as described in]~~ *If a board of county commissioners adopts a resolution joining in a request pursuant to subsection 1, [in the presentation of criminal cases before a committing magistrate, grand jury, or district court.]* the board of county commissioners ~~[of the county making such request]~~ shall, upon the presentation to the board of a duly verified claim setting forth the expenses incurred, pay from the general funds of the county the actual and necessary traveling expenses of the Attorney General or his or her deputy attorney general or his or her special investigator ~~[from Carson City, Nevada,]~~ *, as applicable,* to the place where such proceedings are held and return therefrom, and also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date he or she returns to ~~[Carson City.]~~ *the Office of the Attorney General.*



3. This section must not be construed as directing or requiring the Attorney General to appear in any ~~proceedings mentioned in subsection 2,~~ *criminal cases concerning which the district attorney has requested assistance*, but in acting upon any such request the Attorney General may exercise his or her discretion, and his or her judgment in such matters is final.

4. In addition to any payment of expenses pursuant to subsection 2, the Attorney General may charge for the costs of providing assistance in the prosecution of a category A or B felony pursuant to this section. Such costs must be agreed upon by the Attorney General and the district attorney for the county for which the Attorney General provides assistance.

5. If the Attorney General:

(a) Is requested, pursuant to subsection 1, to provide assistance to a district attorney in the presentation of a criminal case before a committing magistrate, grand jury or district court; and

(b) Determines at any time before trial that it is impracticable or uneconomical or could constitute a conflict of interest for the Attorney General or a deputy attorney general to provide such assistance,

➤ the Attorney General may, with the concurrence of the board of county commissioners and the district attorney, appoint a special prosecutor to present the criminal case.

6. Except as otherwise provided in subsection 7, compensation for a special prosecutor appointed pursuant to subsection 5 must be fixed by the Attorney General, subject to the approval of the State Board of Examiners.

7. For the prosecution of a category A or B felony, compensation and other terms and conditions must be agreed upon by the Attorney General and the district attorney of the county for which the special prosecutor is appointed to provide assistance.

