

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7101

BILL NUMBER: SB 200

NOTE PREPARED: Feb 23, 2021

BILL AMENDED: Feb 18, 2021

SUBJECT: Noncompliant Prosecutor.

FIRST AUTHOR: Sen. Young M

FIRST SPONSOR: Rep. Young J

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill permits the Attorney General to request the appointment of a special prosecuting attorney if a prosecuting attorney is categorically refusing to prosecute certain crimes, and establishes a procedure for the appointment of a person to serve as a special prosecuting attorney to prosecute cases that the county prosecuting attorney is refusing to prosecute.

Effective Date: July 1, 2021.

Explanation of State Expenditures: If the Office of the Attorney General receives credible information that a prosecuting attorney is neglecting to enforce certain laws, it will be required to investigate and verify this noncompliance. If the Office verifies that a prosecuting attorney is categorically refusing to prosecute certain crimes, it *may* file a notice with the Chief Justice of the Indiana Supreme Court who will randomly select a circuit or superior court judge to determine whether a special prosecuting attorney should be appointed. This judge would be from a county outside of the court of appeals district in which the prosecuting attorney exercises jurisdiction.

If the judge determines that appointing a special prosecuting attorney is merited, the judge *may* appoint either a senior prosecuting attorney or a prosecuting attorney or a deputy prosecuting attorney in a county other than the county. The appointed prosecutor *may* file a verified answer to the Attorney General's petition for appointment of a special prosecuting attorney.

These new requirements for the Office of the Attorney General and the Chief Justice should be able to be implemented with existing resources.

Explanation of State Revenues:

Explanation of Local Expenditures: Any additional expenditures for the county in which the prosecuting attorney in question practices will depend on the decisions of the Office of the Attorney General, the appointed judge and the appointed prosecutor. The appointing judge may increase the scope of the special prosecutor's duties or establish a longer term for the special prosecuting attorney at any time if good cause is shown. The judge may require the special prosecuting attorney to submit periodic reports.

A special prosecuting attorney is paid (1) an estimated hourly rate of \$79 (assuming an 8 hour day) based upon the regular salary of a full-time prosecuting attorney of the appointing circuit adjusted for weekends and holidays; (2) travel expenses and reasonable accommodation expenses actually incurred; and (3) other reasonable expenses actually incurred, including the costs of investigation, trial and discovery preparation, and other trial expenses.

The daily salary is \$631 in FY 2021, using an average 246 working days per year. Each full time prosecuting attorney receives a salary of \$155,272 in FY 2021 and is adjusted each year based on the salaries of employees in the executive branch who receive a similar salary (IC 33-38-5-8.1).

Explanation of Local Revenues:

State Agencies Affected: Office of the Attorney General; Supreme Court.

Local Agencies Affected: Counties, prosecuting attorneys.

Information Sources: Indiana Code, December 1, 2020 state staffing table.

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