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AB-2913 Open unsolved murder: review and reinvestigation. (2023-2024)

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Date Published: 02/15/2024 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2913**Introduced by Assembly Member Gipson****February 15, 2024**

An act to add Chapter 4 (commencing with Section 11483) to Title 1 of Part 4 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2913, as introduced, Gipson. Open unsolved murder: review and reinvestigation.

Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought. Various law enforcement agencies and district attorney offices throughout California have established cold case units to investigate unsolved murders.

This bill would require an applicable law enforcement agency to review the casefile regarding an open unsolved murder upon written application by a designated person to determine if a reinvestigation would result in probative investigative leads, as specified. The bill would define an open unsolved murder as a murder committed more than one year prior to the date of the application for case review, that was investigated by a law enforcement agency, was committed after January 1, 1990, where all probative investigative leads have been exhausted, and for which no suspect has been identified. If the review determines a reinvestigation would result in probative investigative leads, this bill would require a reinvestigation, as specified. The bill would prohibit a reinvestigation from being conducted by a person who previously investigated the homicide at issue, as specified, and would allow only one reinvestigation from being undertaken at any one time with respect to the same victim.

By imposing new duties on local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted

above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4 (commencing with Section 11483) is added to Title 1 of Part 4 of the Penal Code, to read:

CHAPTER 4. California Homicide Victims' Families' Rights Act

11483. This act shall be known, and may be cited, as the California Homicide Victims' Families' Rights Act.

11484. As used in this chapter, the following definitions apply:

- (a) "Agency" means a law enforcement entity in California.
- (b) "Applicable agency" means a law enforcement agency that is investigating or has investigated the murder of the victim.
- (c) "Designated person" means an immediate family member or a similarly situated person, or their designated legal representative who is a member in good standing with the State Bar of California.
- (d) "Immediate family member" means a parent, parent-in-law, legal guardian, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a murder victim or any person who exercised in loco parentis control over a victim under 18 years of age.
- (e) "Murder" has the same meaning as in Section 187.
- (f) "Open unsolved murder" means a murder that meets all of the following requirements:
 - (1) The murder was committed more than one year prior to the date of the application for a case review by a designated person under subdivision (d).
 - (2) The murder was previously investigated by an agency.
 - (3) All probative investigative leads have been exhausted.
 - (4) No suspect has been identified.
 - (5) The murder was committed after January 1, 1990.
- (g) "Victim" means the person against whom an open unsolved murder was committed.

11485. (a) An applicable agency shall review the case file regarding an open unsolved murder upon written application by a designated person to determine if a reinvestigation would result in probative investigative leads.

(b) The case file review shall include, but is not limited to:

- (1) An analysis of the investigative steps or follow-up steps that may have been missed in the initial investigation.
 - (2) An assessment of whether witnesses should be interviewed or reinterviewed.
 - (3) An examination of physical evidence to see if all appropriate forensic testing and analysis was performed in the first instance or if additional testing might produce information relevant to the investigation.
 - (4) An update of the case file to bring it up to current investigative standards to the extent doing so would help develop probative leads.
- (c) The person or persons performing the case file review required by this section shall not have previously investigated the murder.
- (d) The applicable agency shall confirm receipt of a request made under subdivision (a) in writing and provide notice of the applicant's rights under this act.

(e) Only one case file review shall be undertaken at any one time with respect to the same open unsolved murder victim. If there is more than one investigative agency, each investigative agency shall coordinate its case file review such that there is only one case file review occurring at a time.

(f) No later than 90 days after the receipt of the written application submitted pursuant to subdivision (a), the applicable agency shall conclude its case file review and reach a conclusion whether a reinvestigation under Section 11487 is warranted.

(g) The agency may extend the time limit in subdivision (f) for a period not to exceed 45 days if the agency makes a finding that the number of case files to be reviewed makes it impracticable to comply with said limit without unreasonably taking resources from other law enforcement activities. For cases for which the time limit in subdivision (f) is extended, the agency shall provide notice and an explanation of its reasoning to the designated person who filed the written application.

11486. (a) Each agency shall develop a written application for designated persons to request a case file review.

(b) Each agency shall assign an individual or department responsible for receiving and processing applications for case file reviews and ensuring that the agency meets all deadlines and obligations within this act generated by the application receipt.

11487. (a) The agency shall conduct a reinvestigation of the open unsolved murder at issue if the review of the case file required by Section 11485 determines a reinvestigation of the open unsolved murder would result in probative investigative leads.

(b) A reinvestigation shall include analyzing all evidence regarding the open unsolved murder at issue for the purpose of developing probative investigative leads as to the suspect or suspects.

(c) The person or persons performing the reinvestigation required by subdivision (a) shall not have previously investigated the murder, except for the case file review.

(d) If there is more than one investigative agency, each investigative agency shall coordinate its reinvestigation such that there is only one reinvestigation occurring at a time.

11488. (a) The applicable agency shall consult with the designated person who filed the written application and provide them with periodic updates during the case file review and reinvestigation.

(b) The agency shall meet with the designated person and discuss the evidence to explain to the designated person who filed the written application the agency's decision on whether or not to engage in a reinvestigation at the conclusion of the case file review.

11489. (a) If a case file review is completed and a conclusion is reached not to conduct a reinvestigation, no additional case file review shall be undertaken for a period of five years, unless there is newly discovered, materially significant evidence. An agency may continue an investigation absent a designated person's application for a new case file review.

(b) If a reinvestigation is done and a suspect is not identified at its conclusion, no additional case file review or reinvestigation needs to be conducted for a period of five years, unless there is newly discovered, materially significant new evidence.

11490. Nothing in this act shall require an agency to provide information that would endanger the safety of any person, unreasonably impede an ongoing investigation, violate a court order, or violate a legal obligation regarding privacy.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.