



Rep. Patricia R. Bellock

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09900HB1870ham001

LRB099 06357 MRW 33442 a

1 AMENDMENT TO HOUSE BILL 1870

2 AMENDMENT NO. _____. Amend House Bill 1870 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Sections 120-5 and 121-14 as follows:

6 (725 ILCS 5/120-5 new)

7 Sec. 120-5. Appeal; defendant's death.

8 (a) Whenever the prosecuting attorney or the attorney for a
9 defendant who is representing a defendant on appeal of a
10 criminal case by the State, learns of the death of the
11 defendant, he or she shall promptly notify the other party and
12 file a certificate of notice of the defendant's death with the
13 court before which the appeal is pending. Upon the filing of
14 the certificate, the court shall vacate the judgment and
15 sentence of the trial court and the cause shall be forever
16 abated.

1 (725 ILCS 5/121-14 new)

2 Sec. 121-14. Appeal; defendant's death.

3 (a) Whenever the prosecuting attorney or the attorney for a
4 defendant who is appealing the defendant's conviction or
5 sentence in a criminal case, learns of the death of the
6 defendant, he or she shall promptly notify the other party and
7 file a certificate of notice of the defendant's death with the
8 court before which the appeal is pending. Upon the filing of
9 the certificate, the court shall immediately stay further
10 action in the proceeding for 28 days.

11 (b) The executor or administrator of the defendant's
12 estate, the defendant's attorney on appeal, the Office of the
13 Appellate Defender, or the Public Defender in the county in
14 which the defendant was convicted, or other successor in
15 interest shall have standing to petition the court for leave to
16 intervene in the appeal for the purpose of pursuing the appeal
17 in place of the defendant. A successor in interest shall file a
18 petition during the period of stay under subsection (a) of this
19 Section. If the court receives a timely petition for leave to
20 intervene, the court shall permit the petitioning party to
21 intervene in the appeal in place of the defendant and the
22 appeal shall proceed in the same manner as if the defendant
23 were still alive. If, after intervention, the appeal results
24 in:

25 (1) the entry of an order affirming the decision of the

1 trial court, the intervenor may continue to pursue the
2 appeal on the behalf of the defendant or seek
3 post-conviction relief to the extent that further
4 appellate or post-conviction relief would have been
5 available to the defendant were he or she still alive;

6 (2) a finding of error by the court resulting in the
7 reversal of a defendant's conviction, the court shall
8 vacate the judgment and sentence of the trial court and the
9 cause shall be forever abated; or

10 (3) a finding of error which would require the trial
11 court to resentence the defendant, but does not require
12 reversal of the defendant's sentence, the court shall
13 vacate the sentence imposed by the trial court and the
14 conviction shall stand.

15 (c) If no petition for leave of the court to intervene is
16 filed under subsection (b) of this Section, the court shall
17 dismiss the appeal without disturbing the decision of the trial
18 court or sentence it imposed."