

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 115-4.5, the heading of Article 121A,
6 and Sections 121A-1 and 121A-2 as follows:

7 (725 ILCS 5/115-4.5 new)

8 Sec. 115-4.5. Death of defendant.

9 Whenever the prosecuting attorney learns of the death of
10 the defendant prior to the entry of a final and appealable
11 judgment in a criminal case, he or she shall promptly notify
12 the other party and file a certificate of notice of the
13 defendant's death with the circuit court before which the case
14 is pending. Upon filing of the certificate, the court shall
15 enter an order abating the proceedings ab initio.

16 (725 ILCS 5/Art. 121A heading new)

17 ARTICLE 121A. PENDING DIRECT APPEAL AFTER DEFENDANT'S DEATH

18 (725 ILCS 5/121A-1 new)

19 Sec. 121A-1. Application of Article.

20 Unless otherwise provided by Rules of the Supreme Court,
21 this Article shall govern pending direct appeal in all criminal

1 cases after the death of the defendant.

2 (725 ILCS 5/121A-2 new)

3 Sec. 121A-2. Pending direct appeal after the defendant's
4 death.

5 (a) Whenever the prosecuting attorney learns of the death
6 of the defendant following the entry of a final and appealable
7 judgment but prior to the conclusion of the defendant's direct
8 appeal from the conviction, he or she shall promptly notify the
9 other party and file a certificate of notice of the defendant's
10 death with the reviewing court before which the direct appeal
11 is pending.

12 (b) Unless the executor or administrator of the defendant's
13 estate or other successor in interest files a verified motion
14 to intervene in the direct appeal within 30 days of the filing
15 of the certificate under subsection (a) of this Section, the
16 reviewing court shall dismiss the direct appeal without
17 disturbing the judgment of the circuit court.

18 (c) If the court receives a timely petition for leave to
19 intervene by an authorized party, the reviewing court shall
20 permit the petitioning party to intervene in the direct appeal
21 in place of the defendant and the direct appeal shall proceed
22 in the same manner as if the defendant were still alive. The
23 authority to intervene shall terminate automatically upon
24 completion of the proceedings in the direct appeal.

25 (d) Nothing in this Section shall be construed to authorize

1 the filing or continued litigation of a post-conviction
2 petition or other collateral attack on a conviction or sentence
3 on behalf of a deceased defendant.