

2022 Regular Session

SENATE BILL NO. 387

BY SENATOR MORRIS

DISTRICT ATTORNEYS. Provides for the attorney general to institute a prosecution when the district attorney refuses. (8/1/22)

1 AN ACT

2 To enact Code of Criminal Procedure Art. 62(D), relative to the authority of the attorney  
3 general; to allow the attorney general to institute criminal proceedings under certain  
4 circumstances; to provide definitions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Art. 62(D) is hereby enacted to read as  
7 follows:

8 Art. 62. Authority of attorney general; supervision of district attorney

9 \* \* \*

10 **D. (1) The Legislature of Louisiana, desiring to protect the safety and**  
11 **welfare of the people of this state, finds that the state has a compelling right and**  
12 **interest in protecting its citizens from crimes of violence that, by their very**  
13 **nature, involve a substantial risk that physical force against the person or**  
14 **property of another may be used in the course of committing the offense, or an**  
15 **offense that involves the possession or use of a dangerous weapon.**

16 **(2) The attorney general has authority to institute and prosecute, or to**  
17 **intervene in, any criminal action or proceeding involving a crime of violence, as**

1        **defined in R.S. 14:2(B), as he may deem necessary for the assertion or**  
2        **protection of the rights and interests of the state as provided for in this**  
3        **Subsection, when authorized by the court that would have original jurisdiction,**  
4        **upon a showing of cause. For purposes of this Article, "cause" includes:**  
5                **(a) Indictment of the district attorney.**  
6                **(b) Failure to timely institute prosecution by indictment or by**  
7        **information. If the attorney general elects to proceed under this Subsubsection,**  
8        **he shall have an additional fifteen calendar days from the expiration of the time**  
9        **for prosecution by the district attorney to institute prosecution by information**  
10        **or indictment.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST

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Present law provides that the attorney general exercises supervision over all district attorneys in the state. Present law further provides that the attorney general has authority to institute and prosecute, or to intervene in any proceeding, as he may deem necessary for the assertion or protection of the rights and interests of the state.

Proposed law retains present law and adds that the attorney general may supercede district attorney authority when he has cause, which includes the indictment of the district attorney or the failure to timely file a bill of information or indictment charging a crime of violence as defined by present law. Proposed law permits the attorney general an additional 15 calendar days to file an information or indictment when the district attorney fails to timely file an information or indictment provided by present law.

Effective August 1, 2022.

(Adds C.Cr.P. Art. 62(D))