



Ohio Revised Code

Section 109.37 Legal representation of correctional employee.

Effective: April 7, 2009

Legislation: House Bill 130 - 127th General Assembly

(A) An employee of the department of rehabilitation and correction may be represented in a criminal proceeding by an attorney selected pursuant to division (B) of this section when all of the following apply:

(1) The employee used deadly force that resulted in the death of another.

(2) The use of deadly force occurred within the scope and in the course of the employee's assigned duties.

(3) The employee's use of deadly force is being investigated by a prosecuting attorney or other criminal investigating authority for possible criminal charges.

(B) When all of the conditions set forth in division (A) of this section apply, the employee may submit a request for legal representation to the director of rehabilitation and correction. If the director determines that all of the conditions in that division apply, and if the director considers the requested legal representation to be appropriate, the director may approve the request and submit it to the attorney general. Upon receipt of the request, the attorney general shall furnish the employee the names of three attorneys who are admitted to the practice of law in this state and are experienced in the defense of criminal charges. The employee may select one of the attorneys to represent the employee until the grand jury concludes its proceedings or the case is disposed of before the grand jury concludes its proceedings.

(C) An attorney who represents an employee pursuant to division (B) of this section shall be paid at the usual rate for like services in the community in which the criminal proceedings occur or at the usual rate paid to special counsel under section 109.07 of the Revised Code, as the attorney general decides. The department of rehabilitation and correction shall pay the attorney's compensation and all reasonable expenses and court costs incurred in the defense of the employee. The attorney general may adopt rules concerning the compensation of attorneys pursuant to this division.



(D) If a criminal investigation described in division (A)(3) of this section of an employee results in an indictment based on the employee's use of deadly force, an attorney who represents the employee pursuant to division (B) of this section may continue to represent the employee in the criminal proceeding on any terms to which the attorney and employee mutually agree. Subject to section 9.871 of the Revised Code, neither the attorney general nor the department of rehabilitation and correction is obligated to provide the employee with legal representation or to pay attorney's fees, expenses, or court costs incurred by the employee following the indictment of the employee.

(E) If an employee is represented by an attorney as described in division (B) of this section and if the employee is subsequently convicted of or pleads guilty to a criminal offense based on the employee's use of deadly force, the attorney general or the department of rehabilitation and correction may seek to recover, including by means of a civil action, from the employee the costs of legal representation paid by the department pursuant to division (B) of this section.