

[Second Reprint]  
**SENATE, No. 2469**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED JULY 14, 2016

**Sponsored by:**

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**District 3 (Cumberland, Gloucester and Salem)**  
**Senator RONALD L. RICE**  
**District 28 (Essex)**  
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**Assemblyman JAMEL C. HOLLEY**  
**District 20 (Union)**  
**Assemblyman BENJIE E. WIMBERLY**  
**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Ruiz, Turner, Lesniak, Assemblymen Caputo, Johnson and Wisniewski**

**SYNOPSIS**

Provides that AG handle investigation and prosecution of crime involving person's death by law enforcement officer while acting in officer's official capacity or while in custody; requires trial in venue outside county where incident occurred.

**CURRENT VERSION OF TEXT**

As amended by the Senate on September 15, 2016.

(Sponsorship Updated As Of: 1/9/2018)

1 AN ACT concerning the prosecution of certain crimes, <sup>1</sup>**and**<sup>1</sup>  
2 amending various parts of the statutory law <sup>1</sup>, and supplementing  
3 P.L.1970, c.74 (C.52:17B-97 et seq.)<sup>1</sup>.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 11 of P.L.1970, c.74 (C.52:17B-107) is amended to  
9 read as follows:

10 11. a. (1) Whenever in the opinion of the Attorney General the  
11 interests of the State will be furthered by so doing, the Attorney  
12 General may **[(1)]** (a) supersede a county prosecutor in any  
13 investigation, criminal action or proceeding, **[(2)]** (b) participate in  
14 any investigation, criminal action or proceeding, or **[(3)]** (c) initiate  
15 any investigation, criminal action or proceeding.

16 (2) Whenever a person's death occurs during an encounter with  
17 a police officer or other law enforcement officer acting in the  
18 officer's official capacity or while the decedent was in custody, the  
19 Attorney General shall supersede the county prosecutor of the  
20 county in which the incident occurred for the purpose of  
21 conducting, personally or by a designated deputy or assistant  
22 attorney general, any investigation, criminal action or proceeding  
23 concerning the incident. The Attorney General or designee shall  
24 present evidence concerning the incident to a county grand jury  
25 impaneled pursuant to N.J.S.2B:21-1 et seq., or a State grand jury,  
26 either one regularly impaneled or one requested to be impaneled by  
27 the Attorney General or the Director of the Division of Criminal  
28 Justice pursuant to N.J.S.2B:22-1 for this specific purpose, in order  
29 to determine if the evidence supports the return of an indictment  
30 against the officer. Any further investigation, criminal action or  
31 proceeding, following an indictment, shall be conducted under the  
32 law as any other investigation, criminal action or proceeding  
33 resulting from a grand jury indictment; provided that, pursuant to  
34 either N.J.S.2B:21-7 or N.J.S.2B:22-7, as applicable, the venue for  
35 any action or proceeding shall be a court or tribunal located in a  
36 county other than the county in which the incident, resulting in the  
37 officer's indictment, occurred.

38 In such instances of supersession, except as provided in  
39 paragraph (2) of this subsection, the Attorney General or designated  
40 deputy or assistant attorney general may appear for the State in any  
41 court or tribunal for the purpose of conducting such investigations,  
42 criminal actions or proceedings as shall be necessary to promote  
43 and safeguard the public interests of the State and secure the  
44 enforcement of the laws of the State.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted September 8, 2016.

<sup>2</sup>Senate floor amendments adopted September 15, 2016.

1       b. The Attorney General may in his discretion act for any  
2 county prosecutor in representing the interests of the State in any  
3 and all appeals and applications for post-conviction remedies.  
4 (cf: P.L.1970, c.74, s.11)

5  
6       <sup>1</sup>2. (New section) <sup>2</sup>Notwithstanding any provisions of law  
7 concerning the public availability or confidentiality of criminal  
8 investigatory records or records of investigations in progress, and  
9 the information contained therein, as set forth in P.L.1963, c.73  
10 (C.47:1A-1 et seq.) or any other law, whenever<sup>2</sup> Whenever<sup>2</sup> a  
11 person's death occurs during an encounter with a police officer or  
12 other law enforcement officer acting in the officer's official  
13 capacity or while the decedent was in custody, requiring the  
14 Attorney General to supersede the county prosecutor of the county  
15 in which the incident occurred for the purpose of conducting any  
16 investigation, criminal action or proceeding concerning the incident  
17 in accordance with paragraph (2) of subsection a. of section 11 of  
18 P.L.1970, c.74 (C.52:17B-107), <sup>2</sup>the Attorney General or a  
19 designated deputy or assistant attorney general conducting any  
20 action on behalf of the Attorney General, shall release to the public,  
21 including publication on the Department of Law and Public Safety's  
22 website, within 48 hours of the incident,]<sup>2</sup> the <sup>2</sup>[name] identity<sup>2</sup> of  
23 each <sup>2</sup>investigating and arresting<sup>2</sup> officer <sup>2</sup>[present at the time of  
24 the incident or otherwise involved with the incident. However,  
25 whenever it shall appear that the release of the information will  
26 jeopardize the officer's safety or the safety of the officer's  
27 immediate family, the information may be withheld; this exception  
28 for withholding the information shall be narrowly construed to  
29 prevent the disclosure of information that would be harmful to the  
30 safety of the officer or the officer's immediate family. Whenever  
31 the Attorney General or the designated deputy or assistant attorney  
32 general determines that it is necessary to withhold the information,  
33 the Attorney General or the designee shall issue a brief statement  
34 explaining the decision] shall remain subject to public disclosure  
35 pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.)<sup>2</sup> .<sup>1</sup>

36  
37       <sup>1</sup>[2.] 3.<sup>1</sup> N.J.S.2B:21-7 is amended to read as follows:

38       2B:21-7. a. An indictment may be found only upon concurrence  
39 of 12 or more grand jurors who either were present during, or who  
40 have read or listened to the record of, all of the proceedings  
41 concerning the indictment and who have examined all exhibits  
42 presented with respect to the indictment.

43       b. Whenever the indictment returned by the grand jury is  
44 against a police officer or other law enforcement officer for a  
45 person's death that occurred during an encounter with that officer  
46 acting in the officer's official capacity or while the decedent was in  
47 custody, pursuant to the investigation and indictment process set  
48 forth in paragraph (2) of subsection a. of section 11 of P.L.1970,

1 c.74 (C.52:17B-107), the judge who impaneled the grand jury shall  
2 designate a county of venue other than the county in which the  
3 incident, resulting in the officer's indictment, occurred, for the  
4 purpose of trial of the indictment.

5 (cf: N.J.S.2B:21-7)

6

7 <sup>1</sup>**[3.] 4.**<sup>1</sup> N.J.S.2B:22-7 is amended to read as follows:

8 2B:22-7. a. (1) The judge who issues an order impaneling a  
9 State grand jury shall designate the county of venue for the purpose  
10 of trial of an indictment returned by the State grand jury.

11 (2) Whenever the indictment returned by the State grand jury is  
12 against a police officer or other law enforcement officer for a  
13 person's death that occurred during an encounter with that officer  
14 acting in the officer's official capacity or while the decedent was in  
15 custody, pursuant to the investigation and indictment process set  
16 forth in paragraph (2) of subsection a. of section 11 of P.L.1970,  
17 c.74 (C.52:17B-107), the judge shall designate a county of venue  
18 other than the county in which the incident, resulting in the officer's  
19 indictment, occurred.

20 b. The judge may direct the consolidation of an indictment  
21 returned by a county grand jury with an indictment returned by a  
22 State grand jury and may fix the venue for trial of both indictments.

23 (cf: N.J.S.2B:22-7)

24

25 <sup>1</sup>**[4.] 5.**<sup>1</sup> This act shall take effect immediately, and shall apply  
26 to any person's death occurring during an encounter with a police  
27 officer or other law enforcement officer acting in the officer's  
28 official capacity or while the decedent was in custody that takes  
29 place on or after the effective date.