

ASSEMBLY, No. 3115

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblywomen Reynolds-Jackson and McKnight

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 introduced.



(Sponsorship Updated As Of: 9/28/2018)

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

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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 2. (New section) Whenever a person's death occurs during an
7 encounter with a police officer or other law enforcement officer
8 acting in the officer's official capacity or while the decedent was in
9 custody, requiring the Attorney General to supersede the county
10 prosecutor of the county in which the incident occurred for the
11 purpose of conducting any investigation, criminal action or
12 proceeding concerning the incident in accordance with paragraph
13 (2) of subsection a. of section 11 of P.L.1970, c.74 (C.52:17B-107),
14 the identity of each investigating and arresting officer shall remain
15 subject to public disclosure pursuant to the provisions of P.L.1963,
16 c.73 (C.47:1A-1 et seq.).

17
18 3. N.J.S.2B:21-7 is amended to read as follows:

19 2B:21-7. a. An indictment may be found only upon
20 concurrence of 12 or more grand jurors who either were present
21 during, or who have read or listened to the record of, all of the
22 proceedings concerning the indictment and who have examined all
23 exhibits presented with respect to the indictment.

24 b. Whenever the indictment returned by the grand jury is
25 against a police officer or other law enforcement officer for a
26 person's death that occurred during an encounter with that officer
27 acting in the officer's official capacity or while the decedent was in
28 custody, pursuant to the investigation and indictment process set
29 forth in paragraph (2) of subsection a. of section 11 of P.L.1970,
30 c.74 (C.52:17B-107), the judge who impaneled the grand jury shall
31 designate a county of venue other than the county in which the
32 incident, resulting in the officer's indictment, occurred, for the
33 purpose of trial of the indictment.

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

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36 4. N.J.S.2B:22-7 is amended to read as follows:

37 2B:22-7. a. (1) The judge who issues an order impaneling a
38 State grand jury shall designate the county of venue for the purpose
39 of trial of an indictment returned by the State grand jury.

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

