

5053

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to the duties of the state police when there is an offense by a police officer that results in serious physical injuries to another person

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 223 of the executive law is amended by adding three
2 new subdivisions 3, 4 and 5 to read as follows:
3 3. IT SHALL BE THE DUTY OF THE SUPERINTENDENT OF THE STATE POLICE AND
4 OF MEMBERS OF THE STATE POLICE TO SECURE AND FREEZE THE SCENE OF ANY
5 CRIME INVOLVING AN OFFENSE BY A POLICE OFFICER RESULTING IN SERIOUS
6 PHYSICAL INJURY, AS SUCH TERM IS DEFINED IN SUBDIVISION TEN OF SECTION
7 10.00 OF THE PENAL LAW, TO ANOTHER PERSON. FOR THE PURPOSES OF THIS
8 SUBDIVISION AND SUBDIVISIONS FOUR AND FIVE OF THIS SECTION, THE TERM
9 "POLICE OFFICER" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION
10 THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.
11 4. IT SHALL BE THE DUTY OF THE SUPERINTENDENT OF THE STATE POLICE AND
12 OF MEMBERS OF THE STATE POLICE TO PREVENT, INVESTIGATE AND DETECT
13 VIOLATIONS OF THE CRIMINAL LAWS OF THIS STATE BY ANY POLICE OFFICER THAT
14 WOULD OR DO RESULT IN SERIOUS PHYSICAL INJURY, AS SUCH TERM IS DEFINED
15 IN SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW, TO ANOTHER PERSON.
16 5. IT SHALL BE THE DUTY OF THE SUPERINTENDENT OF THE STATE POLICE AND
17 OF MEMBERS OF THE STATE POLICE TO COOPERATE WITH THE ATTORNEY GENERAL IN
18 THE INVESTIGATION AND CRIMINAL PROSECUTION OF ANY OFFENSE BY A POLICE
19 OFFICER RESULTING IN SERIOUS PHYSICAL INJURY, AS SUCH TERM IS DEFINED IN
20 SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW, TO ANOTHER PERSON.
21 S 2. The opening paragraph of section 223 of the executive law is
22 renumbered subdivision 1 and three new subdivisions 2, 3 and 4 are added
23 to read as follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD04480-01-9

1 2. IT SHALL BE THE DUTY OF THE SUPERINTENDENT OF THE STATE POLICE AND
2 OF MEMBERS OF THE STATE POLICE TO SECURE AND FREEZE THE SCENE OF ANY
3 CRIME INVOLVING AN OFFENSE BY A POLICE OFFICER RESULTING IN SERIOUS
4 PHYSICAL INJURY, AS SUCH TERM IS DEFINED IN SUBDIVISION TEN OF SECTION
5 10.00 OF THE PENAL LAW, TO ANOTHER PERSON. FOR THE PURPOSES OF THIS
6 SUBDIVISION AND SUBDIVISIONS THREE AND FOUR OF THIS SECTION, THE TERM
7 "POLICE OFFICER" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION
8 THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

9 3. IT SHALL BE THE DUTY OF THE SUPERINTENDENT OF THE STATE POLICE AND
10 OF MEMBERS OF THE STATE POLICE TO PREVENT, INVESTIGATE AND DETECT
11 VIOLATIONS OF THE CRIMINAL LAWS OF THIS STATE BY ANY POLICE OFFICER THAT
12 WOULD OR DO RESULT IN SERIOUS PHYSICAL INJURY, AS SUCH TERM IS DEFINED
13 IN SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW, TO ANOTHER PERSON.

14 4. IT SHALL BE THE DUTY OF THE SUPERINTENDENT OF THE STATE POLICE AND
15 OF MEMBERS OF THE STATE POLICE TO COOPERATE WITH THE ATTORNEY GENERAL IN
16 THE INVESTIGATION AND CRIMINAL PROSECUTION OF ANY OFFENSE BY A POLICE
17 OFFICER RESULTING IN SERIOUS PHYSICAL INJURY, AS SUCH TERM IS DEFINED IN
18 SUBDIVISION TEN OF SECTION 10.00 OF THE PENAL LAW, TO ANOTHER PERSON.

19 S 3. This act shall take effect immediately, provided that the amend-
20 ments to section 223 of the executive law made by section one of this
21 act shall be subject to the expiration and reversion of such section
22 pursuant to section 3 of chapter 428 of the laws of 1999, as amended,
23 when upon such date the provisions of section two of this act shall take
24 effect.