S T A T E O F N E W Y O R K

4298

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. TITONE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing a board for review of officer-involved deaths and procedures for reviewing deaths involving police officers

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

Section 1. The executive law is amended by adding two new sections 845-c and 845-d to read as follows:

S 845-C. BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS. 1. THERE IS HEREBY CREATED A BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS. THE BOARD SHALL BE COMPOSED OF FIVE MEMBERS AS FOLLOWS:

(A) ONE RETIRED OR RESERVE JUDGE.

(B) A FORMER SHERIFF, CHIEF OF POLICE, CHIEF DEPUTY SHERIFF, OR DEPUTY CHIEF OF POLICE.

(C) AN ASSISTANT ATTORNEY GENERAL.

(D) A PROFESSOR OR RESEARCHER AFFILIATED WITH THE STATE UNIVERSITY OF NEW YORK WHO HAS EXPERTISE IN THE FIELD OF CRIMINAL LAW OR CRIMINAL JUSTICE.

(E) A FORMER DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY WHO SERVED IN THAT CAPACITY FOR AT LEAST TEN YEARS.

2. THE MEMBERS OF THE BOARD SHALL BE APPOINTED BY THE COMMISSIONER FOR STAGGERED FOUR-YEAR TERMS.

3. THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS SHALL MEET AS NECESSARY TO PERFORM ITS DUTIES UNDER SECTION EIGHT HUNDRED FORTY-FIVE-D OF THIS ARTICLE.

S 845-D. REVIEW OF DEATHS INVOLVING POLICE OFFICERS. 1. EACH POLICE AGENCY SHALL HAVE A WRITTEN POLICY REGARDING THE HANDLING OF DEATHS INVOLVING A POLICE OFFICER EMPLOYED BY THE DIVISION. EACH POLICY IS SUBJECT TO THE REVIEW AND APPROVAL OF THE BOARD FOR REVIEW OF

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

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OFFICER-INVOLVED DEATHS ESTABLISHED PURSUANT TO SECTION EIGHT HUNDRED FORTY-FIVE-C OF THIS ARTICLE.

2. (A) EACH POLICY SHALL REQUIRE A TEAM OF INVESTIGATORS CONSISTING OF AT LEAST THREE INDIVIDUALS, INCLUDING INDIVIDUALS FROM AT LEAST TWO DIFFERENT AGENCIES THAT DO NOT EMPLOY THE POLICE OFFICER INVOLVED IN THE DEATH BEING INVESTIGATED.

(B) IF THE DEATH BEING INVESTIGATED IS TRAFFIC RELATED, THE POLICY SHALL REQUIRE THE INVESTIGATIVE TEAM TO USE A CRASH RECONSTRUCTION UNIT FROM AN AGENCY THAT DOES NOT EMPLOY THE LAW ENFORCEMENT OFFICER INVOLVED IN THE DEATH BEING INVESTIGATED.

(C) EACH POLICY MAY ALLOW AN INTERNAL INVESTIGATION INTO THE DEATH IF THE INTERNAL INVESTIGATION DOES NOT INTERFERE WITH THE DUTIES OF THE TEAM OF INVESTIGATORS REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

(D) EACH POLICY SHALL REQUIRE ANY POLICE OFFICER INVOLVED IN THE DEATH TO SUBMIT A BLOOD SAMPLE. NO PERSON MAY PERFORM ANY ANALYSIS OR TEST ON THE BLOOD SAMPLE WITHOUT EITHER THE PERMISSION OF THE POLICE OFFICER WHO SUBMITTED THE SAMPLE OR A SEARCH WARRANT. AT THE CONCLUSION OF THE INVESTIGATION OF THE DEATH, THE SAMPLE MAY BE DESTROYED IF A COURT APPROVES.

3. (A) A TEAM OF INVESTIGATORS CREATED UNDER PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION SHALL CONSULT AND REPORT TO THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE DEATH OCCURRED. EXCEPT AS PROVIDED IN THIS SUBDIVISION, THE TEAM OF INVESTIGATORS SHALL KEEP CONFIDENTIAL ANY MATERIAL AND INFORMATION RELATED TO THE DEATH AND THE INVESTIGATION.

(B) WHEN THE TEAM OF INVESTIGATORS COMPLETES THEIR INVESTIGATION, THEY SHALL PROVIDE A FINAL REPORT TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY SHALL RELEASE THE REPORT TO THE BOARD FOR THE REVIEW OF OFFICER-INVOLVED DEATHS.

(C) A TEAM OF INVESTIGATORS CREATED UNDER PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION SHALL RESPOND TO REQUESTS UNDER SUBDIVISION FOUR OF THIS SECTION FROM THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS UNLESS THE DISTRICT ATTORNEY RESTRICTS THE TEAM FROM A RESPONSE DUE TO A COURT ORDER OR BECAUSE A RESPONSE COULD JEOPARDIZE THE PROSECUTION OR INVESTIGATION OF AN OPEN CASE.

4. (A) WHEN THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS RECEIVES A REPORT UNDER PARAGRAPH (B) OF THIS SUBDIVISION, IT SHALL REVIEW THE REPORT AND EVIDENCE TO DETERMINE IF IT ADDRESSES ALL ASPECTS OF THE DEATH. THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS MAY REQUEST MORE INFORMATION, CLARIFICATION, OR TESTIMONY FROM THE INVESTIGATIVE TEAM THAT PREPARED THE REPORT.

(B) WHEN THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS FINISHES ITS REVIEW OF THE REPORT, IT MAY MAKE RECOMMENDATIONS TO THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE DEATH OCCURRED AND FORWARD THE REPORT TO ANY PERSON RESPONSIBLE FOR DISCIPLINING AN OFFICER INVOLVED.

(C) MEETINGS OF THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS ARE OPEN TO THE PUBLIC BUT PUBLIC COMMENT IS CLOSED UNLESS THE MAJORITY OF THE BOARD VOTES TO ALLOW PUBLIC COMMENT.

5. WHEN THE BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS COMPLETES ITS REVIEW OF A REPORT UNDER SUBDIVISION FOUR OF THIS SECTION, THE ATTORNEY GENERAL SHALL RELEASE THE REPORT AND ANY ACCOMPANYING WRITTEN FILES UNLESS THE INFORMATION MUST BE KEPT CONFIDENTIAL BY STATUTE.

6. FOR PURPOSES OF THIS SECTION "POLICE OFFICER" MEANS A PERSON DESIGNATED AS SUCH IN SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made and completed on or before such effective date.