

# STATE OF NEW YORK

10854

## IN ASSEMBLY

July 24, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Fernandez)  
-- read once and referred to the Committee on Governmental Employees

### CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 5 of the constitution, in relation to  
reducing a police officer's pension to satisfy judgments in a wrongful  
death action

1 Section 1. Resolved (if the Senate concur), That section 7 of article  
2 5 of the constitution be amended by adding a new subdivision (e) to read  
3 as follows:

4 (e) (i) Notwithstanding subdivision (a) of this section, the public  
5 pension of a police officer, as defined in paragraph (ii) of this subdivi-  
6 vision, who is found liable in a wrongful death action arising out of  
7 the performance of his or her duties, may be reduced to no less than  
8 twenty thousand dollars to satisfy the judgment against such police  
9 officer in such wrongful death action prior to the payment of any public  
10 funds, following notice and a hearing by an appropriate court, as  
11 provided by law. The court determination whether to reduce such pension  
12 shall be based on the consideration of factors including the severity of  
13 such police officer's actions and the proportionality of a reduction of  
14 such pension to such actions. When a court issues an order to reduce  
15 such pension, the court shall consider and determine specific findings  
16 as to the amount of such reduction, if any, and whether the reduction  
17 would result in undue hardship or other inequity upon any dependent  
18 children, spouse or other dependents; and other factors as provided by  
19 law. The legislature shall enact legislation to implement this amend-  
20 ment.

21 (ii) For the purposes of paragraph (i) of this subdivision, the term  
22 "police officer" shall mean any member of a duly organized police force  
23 or department of any county, city, town, village, municipality, authori-  
24 ty, police district, regional state park commission when employed full  
25 time in the enforcement of the general criminal laws of the state, or  
26 any member of the state police or a sheriff, undersheriff or deputy  
27 sheriff.

28 (iii) Paragraph (i) of this subdivision shall only apply to actions  
29 filed on or after the first of January next succeeding the date upon

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

LBD89168-01-0

1 which the people shall approve and ratify the amendment to the constitu-  
2 tion that added this subdivision.

3 § 2. Resolved (if the Senate concur), That the foregoing amendment be  
4 referred to the first regular legislative session convening after the  
5 next succeeding general election of members of the assembly, and, in  
6 conformity with section 1 of article 19 of the constitution, be  
7 published for 3 months previous to the time of such election.