STATE OF NEW YORK

10574

IN ASSEMBLY

June 3, 2020

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

AN ACT to amend the penal law, in relation to enacting the New York death by police brutality prevention act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "New York death by police brutality prevention act".

§ 2. The penal law is amended by adding two new sections 120.19 and 120.19-a to read as follows:

§ 120.19 Undue use of force by an officer in the second degree.

A person is guilty of undue use of force by an officer in the second degree when he or she:

1. is a police officer or peace officer; and

2. he or she intentionally uses a maneuver to subdue a person which limits the ability of the person to breathe including, but not limited to, restraining a person around the neck, using a choke hold, putting his or her knee on the person's neck or acting in any other manner which interferes with or results in the blocking or compromising of the person's airway.

Undue use of force by an officer in the second degree is a class C felony.

§ 120.19-a Undue use of force by an officer in the first degree.

A person is guilty of undue use of force by an officer in the first degree when he or she:

1. is a police officer or peace officer; and

2. he or she intentionally uses a maneuver to subdue a person which limits the ability of the person to breathe including, but not limited to, restraining a person around the neck, using a choke hold, putting his or her knee on the person's neck or acting in any other manner which interferes with or results in the blocking or compromising of the person's airway; and

3. he or she causes such person to suffer serious physical injury.

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

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Undue use of force by an officer in the first degree is a class B felony.

§ 3. Subdivision 5 of section 125.25 of the penal law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

5. Being eighteen years old or more, while in the course of committing rape in the first, second or third degree, criminal sexual act in the first, second or third degree, sexual abuse in the first degree, aggravated sexual abuse in the first, second, third or fourth degree, or incest in the first, second or third degree, against a person less than fourteen years old, he or she intentionally causes the death of such person**; or**

6. Being a police officer or peace officer, while in the course of committing undue use of force by an officer in the second degree as provided in section 120.19 or undue use of force by an officer in the first degree as provided in section 120.19-a of this title, he or she causes the death of a person.

§ 4. This act shall take effect immediately.