STATE OF NEW YORK

7049--A

2021-2022 Regular Sessions

IN SENATE

May 26, 2021

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the office of special investigation inspecting serious physical injuries that may have resulted in death

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

Section 1. Subdivisions 1 and 2 of section 70-b of the executive law, as added by chapter 95 of the laws of 2020, are amended and a new subdivision 1-a is added to read as follows:

1. There shall be established within the office of the attorney general an office of special investigation. Notwithstanding any other provision of law, the office of special investigation shall investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person, whether or not formally on duty, who is a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer as defined in section 2.10 of the criminal procedure law, provided that such peace officer is employed or contracted by an education, public health, social service, parks, housing or corrections agency, or is a peace officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law, concerning any incident in which the death**, or serious physical injury pursuant to subdivision one-a of this section,** of a person, whether in custody or not, is caused by an act or omission of such police officer or peace officer or in which the attorney general determines there is a question as to whether the death**, or serious physical injury pursuant to subdivision one-a of this section,** was in fact caused by an act or omission of such police officer or peace officer.

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

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1-a. The office of special investigation shall establish a demonstration project in certain counties related to incidents described in subdivision one of this section that result in serious physical injury of a person, that the attorney general determines such serious physical injury reasonably could have resulted in death, or did result in paralysis, comatose, brain damage, or any other life threatening grave bodily injury as determined by the attorney general. Such demonstration project shall be established for incidents occurring in counties not wholly contained within a city with a population as of the most recent census under one million and over four hundred thousand. The provisions of this section shall apply to the demonstration project established by this subdivision in the same manner as incidents of death of a person under the jurisdiction of the attorney general as prescribed by this section.

2. The attorney general has investigative authority and criminal jurisdiction under this section at the time of the death**, or serious physical injury pursuant to subdivision one-a of this section,** of the person and the attorney general retains investigative authority and criminal jurisdiction over the incident unless the attorney general determines that such incident does not meet the requirements of this section. If the attorney general determines the incident does not meet the requirements for the attorney general to have investigative authority and criminal jurisdiction pursuant to this section, the attorney general shall, as soon as practicable, provide written notice of such determination to the district attorney for the county in which the incident occurred.

§ 2. This act shall take effect January 1, 2023.