

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:

1 Section 1. Subdivisions 1 and 2 of section 70-b of the executive law,
2 as added by chapter 95 of the laws of 2020, are amended and a new subdivision
3 1-a is added to read as follows:
4 1. There shall be established within the office of the attorney general
5 an office of special investigation. Notwithstanding any other
6 provision of law, the office of special investigation shall investigate
7 and, if warranted, prosecute any alleged criminal offense or offenses
8 committed by a person, whether or not formally on duty, who is a police
9 officer, as defined in subdivision thirty-four of section 1.20 of the
10 criminal procedure law, or a peace officer as defined in section 2.10 of
11 the criminal procedure law, provided that such peace officer is employed
12 or contracted by an education, public health, social service, parks,
13 housing or corrections agency, or is a peace officer as defined in
14 subdivision twenty-five of section 2.10 of the criminal procedure law,
15 concerning any incident in which the death, or serious physical injury
16 pursuant to subdivision one-a of this section, of a person, whether in
17 custody or not, is caused by an act or omission of such police officer
18 or peace officer or in which the attorney general determines there is a
19 question as to whether the death, or serious physical injury pursuant to
20 subdivision one-a of this section, was in fact caused by an act or omission
21 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 1-a. The office of special investigation shall establish a demon-
2 stration project in certain counties related to incidents described in
3 subdivision one of this section that result in serious physical injury
4 of a person, that the attorney general determines such serious physical
5 injury reasonably could have resulted in death, or did result in paraly-
6 sis, comatose, brain damage, or any other life threatening grave bodily
7 injury as determined by the attorney general. Such demonstration project
8 shall be established for incidents occurring in counties not wholly
9 contained within a city with a population as of the most recent census
10 under one million and over four hundred thousand. The provisions of this
11 section shall apply to the demonstration project established by this
12 subdivision in the same manner as incidents of death of a person under
13 the jurisdiction of the attorney general as prescribed by this section.

14 2. The attorney general has investigative authority and criminal
15 jurisdiction under this section at the time of the death, or serious
16 physical injury pursuant to subdivision one-a of this section, of the
17 person and the attorney general retains investigative authority and
18 criminal jurisdiction over the incident unless the attorney general
19 determines that such incident does not meet the requirements of this
20 section. If the attorney general determines the incident does not meet
21 the requirements for the attorney general to have investigative authori-
22 ty and criminal jurisdiction pursuant to this section, the attorney
23 general shall, as soon as practicable, provide written notice of such
24 determination to the district attorney for the county in which the inci-
25 dent occurred.

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