

P.L. 2019, CHAPTER 1, *approved January 30, 2019*
Senate, No. 1036

1 AN ACT concerning the prosecution of certain crimes, amending
2 various parts of the statutory law, and supplementing P.L.1970,
3 c.74 (C.52:17B-97 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. Section 11 of P.L.1970, c.74 (C.52:17B-107) is amended to
9 read as follows:

10 11. a. (1) Whenever in the opinion of the Attorney General the
11 interests of the State will be furthered by so doing, the Attorney
12 General may **[(1)]** (a) supersede a county prosecutor in any
13 investigation, criminal action or proceeding, **[(2)]** (b) participate in
14 any investigation, criminal action or proceeding, or **[(3)]** (c) initiate
15 any investigation, criminal action or proceeding.

16 (2) Whenever a person's death occurs during an encounter with
17 a police officer or other law enforcement officer acting in the
18 officer's official capacity or while the decedent was in custody, the
19 Attorney General shall supersede the county prosecutor of the
20 county in which the incident occurred for the purpose of
21 conducting, personally or by a designated deputy or assistant
22 attorney general, any investigation, criminal action or proceeding
23 concerning the incident. The Attorney General or designee shall
24 present evidence concerning the incident to a county grand jury
25 impaneled pursuant to N.J.S.2B:21-1 et seq., or a State grand jury,
26 either one regularly impaneled or one requested to be impaneled by
27 the Attorney General or the Director of the Division of Criminal
28 Justice pursuant to N.J.S.2B:22-1 for this specific purpose, in order
29 to determine if the evidence supports the return of an indictment
30 against the officer. Any further investigation, criminal action or
31 proceeding, following an indictment, shall be conducted under the
32 law as any other investigation, criminal action or proceeding
33 resulting from a grand jury indictment; provided that, pursuant to
34 either N.J.S.2B:21-7 or N.J.S.2B:22-7, as applicable, the venue for
35 any action or proceeding shall be a court or tribunal located in a
36 county other than the county in which the incident, resulting in the
37 officer's indictment, occurred.

38 In such instances of supersession, except as provided in
39 paragraph (2) of this subsection, the Attorney General or designated

EXPLANATION – Matter enclosed in bold-faced brackets **[(thus)]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 deputy or assistant attorney general may appear for the State in any
2 court or tribunal for the purpose of conducting such investigations,
3 criminal actions or proceedings as shall be necessary to promote
4 and safeguard the public interests of the State and secure the
5 enforcement of the laws of the State.

6 b. The Attorney General may in his discretion act for any
7 county prosecutor in representing the interests of the State in any
8 and all appeals and applications for post-conviction remedies.

9 (cf: P.L.1970, c.74, s.11)

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11 2. (New section) Whenever a person's death occurs during an
12 encounter with a police officer or other law enforcement officer
13 acting in the officer's official capacity or while the decedent was in
14 custody, requiring the Attorney General to supersede the county
15 prosecutor of the county in which the incident occurred for the
16 purpose of conducting any investigation, criminal action or
17 proceeding concerning the incident in accordance with paragraph
18 (2) of subsection a. of section 11 of P.L.1970, c.74 (C.52:17B-107),
19 the identity of each investigating and arresting officer shall remain
20 subject to public disclosure pursuant to the provisions of P.L.1963,
21 c.73 (C.47:1A-1 et seq.).

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23 3. N.J.S.2B:21-7 is amended to read as follows:

24 2B:21-7. a. An indictment may be found only upon concurrence
25 of 12 or more grand jurors who either were present during, or who
26 have read or listened to the record of, all of the proceedings
27 concerning the indictment and who have examined all exhibits
28 presented with respect to the indictment.

29 b. Whenever the indictment returned by the grand jury is
30 against a police officer or other law enforcement officer for a
31 person's death that occurred during an encounter with that officer
32 acting in the officer's official capacity or while the decedent was in
33 custody, pursuant to the investigation and indictment process set
34 forth in paragraph (2) of subsection a. of section 11 of P.L.1970,
35 c.74 (C.52:17B-107), the judge who impaneled the grand jury shall
36 designate a county of venue other than the county in which the
37 incident, resulting in the officer's indictment, occurred, for the
38 purpose of trial of the indictment.

39 (cf: N.J.S.2B:21-7)

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41 4. N.J.S.2B:22-7 is amended to read as follows:

42 2B:22-7. a. (1) The judge who issues an order impaneling a
43 State grand jury shall designate the county of venue for the purpose
44 of trial of an indictment returned by the State grand jury.

45 (2) Whenever the indictment returned by the State grand jury is
46 against a police officer or other law enforcement officer for a
47 person's death that occurred during an encounter with that officer
48 acting in the officer's official capacity or while the decedent was in
49 custody, pursuant to the investigation and indictment process set

1 forth in paragraph (2) of subsection a. of section 11 of P.L.1970,
2 c.74 (C.52:17B-107), the judge shall designate a county of venue
3 other than the county in which the incident, resulting in the officer's
4 indictment, occurred.

5 b. The judge may direct the consolidation of an indictment
6 returned by a county grand jury with an indictment returned by a
7 State grand jury and may fix the venue for trial of both indictments.
8 (cf: N.J.S.2B:22-7)

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10 5. This act shall take effect immediately, and shall apply to any
11 person's death occurring during an encounter with a police officer
12 or other law enforcement officer acting in the officer's official
13 capacity or while the decedent was in custody that takes place on or
14 after the effective date.

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17 STATEMENT

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19 This bill provides that when a person's death occurred during an
20 encounter with a police officer or other law enforcement officer acting
21 in the officer's official capacity or while the decedent was in custody,
22 the Attorney General is to supersede the local county prosecutor,
23 utilizing existing supersession authority, and conduct, personally or by
24 a designated deputy or assistant attorney general, any investigation,
25 criminal action or proceeding concerning the incident.

26 The bill provides for the Attorney General or designee to present
27 evidence concerning the incident to a county grand jury or a State
28 grand jury, either one regularly impaneled or one requested to be
29 impaneled by the Attorney General or the Director of the Division of
30 Criminal Justice pursuant to N.J.S.2B:22-1 for this specific purpose, to
31 determine if the evidence supports the return of an indictment against
32 any involved officer. Any further investigation, criminal action or
33 proceeding, following an indictment, is to be conducted under the law
34 as any other investigation, criminal action or proceeding resulting from
35 a grand jury indictment; provided that the venue for any such criminal
36 action or proceeding will occur in a court located in a county other
37 than the county in which the incident, resulting in the officer's
38 indictment, occurred.

39 The bill also notes that, consistent with existing public records law,
40 the identity of each investigating and arresting officer involved when
41 the person's death occurred during the encounter with a police officer
42 or other law enforcement officer acting in the officer's official
43 capacity or while the decedent was in custody would remain subject to
44 public disclosure. See P.L.1963, c.73 (C.47:1A-1 et seq.).

45 The bill takes effect immediately upon enactment and applies to
46 deaths occurring on or after the effective date of the bill.

S1036

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2 Provides that AG handle investigation and prosecution of crime
3 involving person's death by law enforcement officer while acting in
4 officer's official capacity or while in custody; requires trial in
5 venue outside county where incident occurred.