

CHAPTER 1

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 11 of P.L.1970, c.74 (C.52:17B-107) is amended to read as follows:

C.52:17B-107 Appearance of attorney general for state in investigations, criminal actions or proceedings.

11. a. (1) Whenever in the opinion of the Attorney General the interests of the State will be furthered by so doing, the Attorney General may (a) supersede a county prosecutor in any investigation, criminal action or proceeding, (b) participate in any investigation, criminal action or proceeding, or (c) initiate any investigation, criminal action or proceeding.

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

In such instances of supersession, except as provided in paragraph (2) of this subsection, the Attorney General or designated deputy or assistant attorney general may appear for the State in any court or tribunal for the purpose of conducting such investigations, criminal actions or proceedings as shall be necessary to promote and safeguard the public interests of the State and secure the enforcement of the laws of the State.

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

C.52:17B-107.1 Law enforcement identity subject to public disclosure.

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

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

N.J.S.2B:21-7 Indictment.

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

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

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

N.J.S.2B:22-7 Return of indictment or presentment.

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

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

b. The judge may direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a State grand jury and may fix the venue for trial of both indictments.

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

Approved January 30, 2019.