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**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Law allowing Attorney General to take over probes of deaths in police custody signed,"  
northjersey.com, January 30, 2019

"Inquiries into police shootings to change Police Gov. signs bill putting state investigators in charge,"  
The Star-Ledger, January 31, 2019

"Fatal police shootings now A.G.'s purview,"  
The Press of Atlantic City, February 6, 2019

RWH/JA

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:  
7

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)

10  
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.).

22  
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  
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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)

9  
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.

#### 15 16 17 STATEMENT

18  
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**

4

1

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.

# SENATE, No. 1036

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

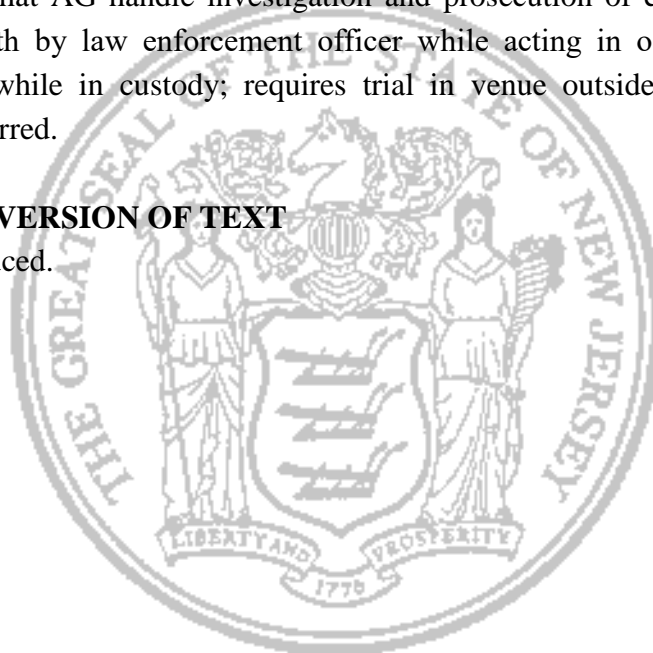
**Assemblywomen Reynolds-Jackson and McKnight**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/18/2018)**

S1036 SWEENEY, TURNER

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48 indictment, occurred.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 1036

# STATE OF NEW JERSEY

DATED: DECEMBER 10, 2018

The Assembly Appropriations Committee reports favorably Senate Bill No. 1036.

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

The bill provides for the Attorney General or designee to present evidence concerning the incident to a county grand jury or a State grand jury, either regularly impaneled or requested to be impaneled by the Attorney General or the Director of the Division of Criminal Justice for this specific purpose, to determine if the evidence supports the return of an indictment against any involved officer. Any further investigation, criminal action, or proceeding, following an indictment, is conducted as any other investigation, criminal action, or proceeding resulting from a grand jury indictment; provided that the venue will be a court located in a county other than the county in which the incident, resulting in the officer's indictment, occurred.

The bill also notes that, consistent with existing public records law, the identity of each investigating and arresting officer involved in a death that is subject to the provisions of this bill is to remain subject to public disclosure.

The bill applies to deaths occurring on or after the effective date of the bill.

As reported, this bill is identical to Assembly Bill No. 3115, as also reported by the committee on this date.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will result in recurring fiscal impacts on the State and county governments in whose jurisdiction arrest-related and custody-related deaths occur. The OLS, however, cannot determine the direction or magnitude of the fiscal net impacts.

The bill increases the workload of the Department of Law and Public Safety. Depending on the department's resource allocation policies, this increased workload may cause an indeterminate annual

State expenditure increase. The department, however, may be able to recoup any cost increase in part or in full from counties. Subject to certain conditions, existing law requires a county to reimburse the department for incurred expenses in prosecuting the criminal business of the county. The OLS, however, cannot determine to what extent the bill will increase the department's expenditures and to what extent the department will seek reimbursements therefor.

The bill's recurring net effect on county finances is indeterminate. Counties will experience a workload reduction that may lead to indeterminate recurring in-house expenditure decreases, depending on county prosecutor office resource allocation policies. But counties may also incur indeterminate larger payments to the State if the department seeks expense reimbursement from the counties.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 1036

# STATE OF NEW JERSEY

DATED: FEBRUARY 5, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1036.

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

The bill provides for the Attorney General or designee to present evidence concerning the incident to a county grand jury or a State grand jury, either regularly impaneled or requested to be impaneled by the Attorney General or the Director of the Division of Criminal Justice for this specific purpose, to determine if the evidence supports the return of an indictment against any involved officer. Any further investigation, criminal action, or proceeding, following an indictment, is conducted as any other investigation, criminal action, or proceeding resulting from a grand jury indictment; provided that the venue will be a court located in a county other than the county in which the incident, resulting in the officer's indictment, occurred.

The bill also notes that, consistent with existing public records law, the identity of each investigating and arresting officer involved in a death that is subject to the provisions of this bill is to remain subject to public disclosure.

The bill applies to deaths occurring on or after the effective date of the bill.

#### FISCAL IMPACT:

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The bill increases the workload of the Department of Law and Public Safety. Depending on the department's resource allocation policies, this increased workload may cause an indeterminate annual State expenditure increase. The department, however, may be able to recoup any cost increase in part or in full from counties. Subject to

certain conditions, existing law requires a county to reimburse the department for incurred expenses in prosecuting the criminal business of the county. The OLS, however, cannot determine to what extent the bill will increase the department's expenditures and to what extent the department will seek reimbursements therefor.

The bill's recurring net effect on county finances is indeterminate. Counties will experience a workload reduction that may lead to indeterminate recurring in-house expenditure decreases, depending on county prosecutor office resource allocation policies. But counties may also incur indeterminate larger payments to the State if the department seeks expense reimbursement from counties.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 1036**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: FEBRUARY 9, 2018

**SUMMARY**

- Synopsis:** Provides that AG handle investigation and prosecution of crime involving person's death by law enforcement officer while acting in officer's official capacity or while in custody; requires trial in venue outside county where incident occurred.
- Type of Impact:** Indeterminate Recurring Fiscal Impacts on State General Fund and County Governments.
- Agencies Affected:** Department of Law and Public Safety, and County Governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Fiscal Impact</b>	Indeterminate – See comments below.		
<b>Local Fiscal Impact</b>	Indeterminate – See comments below.		

- The Office of Legislative Services (OLS) finds that the bill will affect annual State and county government finances, as the bill will shift from counties to the State Department of Law and Public Safety the responsibility for investigating and prosecuting crimes involving a person’s death that occurred during an encounter with a law enforcement officer acting in the officer’s official capacity or while the person was in custody. The OLS, however, cannot determine the direction or magnitude of the fiscal net impacts.
- The bill will increase the workload of the Department of Law and Public Safety. Depending on the department’s resource allocation policies, this could cause an indeterminate annual State expenditure increase. The department, however, may be able to recoup any cost increase in part or in full from counties.
- The bill’s recurring net effect on county finances is indeterminate. Counties will experience a workload reduction that could lead to indeterminate recurring in-house expenditure decreases, depending on county prosecutor office resource allocation policies. But counties may also incur indeterminate larger payments to the State if the State Department of Law and Public Safety were to seek expense reimbursements from counties.

## **BILL DESCRIPTION**

This bill shifts from counties to the Office of the Attorney General in the State Department of Law and Public Safety the responsibility for investigating and prosecuting crimes involving a person's death that occurred during an encounter with a law enforcement officer acting in the officer's official capacity or while the person was in custody. Under current law counties conduct the investigations and prosecutions unless the Office of the Attorney General invokes its discretionary power to claim jurisdiction.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS finds that the bill will result in recurring fiscal impacts on the State and county governments in whose jurisdiction arrest-related and custody-related deaths occur. The OLS, however, can determine neither the direction nor the magnitude of the fiscal net impacts.

State Impact: The Department of Law and Public Safety will experience a workload increase, as the bill will shift from counties to the department the responsibility for investigating and prosecuting crimes involving arrest-related and custody-related deaths. Under current law the department may already claim jurisdiction over such investigations and prosecutions.

Depending on department resource allocation policies, the additional workload could cause an indeterminate annual expenditure increase. The department, however, may be able to recoup a portion or all of any cost increase from counties under N.J.S.A.52:17B-108. Subject to certain conditions, the existing law requires a county to reimburse the department for the expenses the department incurs in prosecuting the criminal business of the county. The OLS, however, cannot determine to what extent the bill will increase the department's expenditures and to what extent the department will seek reimbursements therefor from counties.

County Impact: The OLS cannot determine the direction and magnitude of the bill's fiscal net impact on counties. The bill's shifting from counties to the State of the responsibility for the investigation and prosecution of arrest-related and custody-related deaths has the potential to produce two countervailing county cost effects. First, the bill reduces the workload of county prosecutor offices. Depending on the offices' resource allocation policies, the workload reductions may result in indeterminate recurring in-house expenditure decreases. Second, counties may also incur indeterminate larger payments to the State if the State Department of Law and Public Safety were to seek additional expense reimbursements under N.J.S.A.52:17B-108.

Arrest-Related and Custody-Related Deaths Data: According to the U.S. Bureau of Justice Statistics (BJS), reviews of media reports identified 1,348 potential arrest-related deaths (ARDs) nationwide between June 1, 2015 and March 31, 2016, or an average of 135 deaths per month. To confirm and collect more information about the deaths identified through media sources, the BJS conducted a survey of law enforcement agencies and medical examiner offices over the three-month period from June 2015 to August 2015. The survey findings identified 425 ARDs during the three-month period or 12 percent more than the number of deaths identified through



the media review. Of the 425 deaths that occurred from June 2015 to August 2015, 64 percent were homicides, about 18 percent were suicides, and 11 percent were accidents.

The BJS then extrapolated from the three-month data to a full calendar year and estimated that 1,900 ARDs occurred in 2015 nationwide.

In addition, the BJS specified that of the 425 ARDs reported nationwide between June 2015 and August 2015, eight occurred in New Jersey.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 3115

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

**Sponsored by:**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywomen Reynolds-Jackson and McKnight**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/28/2018)**

A3115 TIMBERLAKE, QUIJANO

2

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5  
6       2. (New section) Whenever a person's death occurs during an  
7 encounter with a police officer or other law enforcement officer  
8 acting in the officer's official capacity or while the decedent was in  
9 custody, requiring the Attorney General to supersede the county  
10 prosecutor of the county in which the incident occurred for the  
11 purpose of conducting any investigation, criminal action or  
12 proceeding concerning the incident in accordance with paragraph  
13 (2) of subsection a. of section 11 of P.L.1970, c.74 (C.52:17B-107),  
14 the identity of each investigating and arresting officer shall remain  
15 subject to public disclosure pursuant to the provisions of P.L.1963,  
16 c.73 (C.47:1A-1 et seq.).

17  
18       3. N.J.S.2B:21-7 is amended to read as follows:

19       2B:21-7. a. An indictment may be found only upon  
20 concurrence of 12 or more grand jurors who either were present  
21 during, or who have read or listened to the record of, all of the  
22 proceedings concerning the indictment and who have examined all  
23 exhibits presented with respect to the indictment.

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

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

35  
36       4. N.J.S.2B:22-7 is amended to read as follows:

37       2B:22-7. a. (1) The judge who issues an order impaneling a  
38 State grand jury shall designate the county of venue for the purpose  
39 of trial of an indictment returned by the State grand jury.

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



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3115

# STATE OF NEW JERSEY

DATED: DECEMBER 10, 2018

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3115.

This bill provides that when a person's death occurred 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 is to supersede the local county prosecutor, and conduct, personally or by a designated deputy or assistant attorney general, any investigation, criminal action or proceeding concerning the incident.

The bill provides for the Attorney General or designee to present evidence concerning the incident to a county grand jury or a State grand jury, either regularly impaneled or requested to be impaneled by the Attorney General or the Director of the Division of Criminal Justice for this specific purpose, to determine if the evidence supports the return of an indictment against any involved officer. Any further investigation, criminal action or proceeding, following an indictment, is to be conducted under the law as any other investigation, criminal action or proceeding resulting from a grand jury indictment; provided that the venue for any such criminal action or proceeding will occur in a court located in a county other than the county in which the incident, resulting in the officer's indictment, occurred.

The bill also notes that, consistent with existing public records law, the identity of each investigating and arresting officer involved in a death that is subject to the provisions of this bill is to remain subject to public disclosure.

The bill applies to deaths occurring on or after the effective date of the bill.

As reported, this bill is identical to Senate Bill No. 1036, as also reported by the committee on this date.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will result in recurring fiscal impacts on the State and county governments in whose jurisdiction arrest-related and custody-related deaths occur. The OLS, however, cannot determine the direction or magnitude of the fiscal net impacts.

The bill increases the workload of the Department of Law and Public Safety. Depending on the department's resource allocation

policies, this increased workload may cause an indeterminate annual State expenditure increase. The department, however, may be able to recoup any cost increase in part or in full from counties. Subject to certain conditions, existing law requires a county to reimburse the department for incurred expenses in prosecuting the criminal business of the county. The OLS, however, cannot determine to what extent the bill will increase the department's expenditures and to what extent the department will seek reimbursements therefor.

The bill's recurring net effect on county finances is indeterminate. Counties will experience a workload reduction that may lead to indeterminate recurring in-house expenditure decreases, depending on county prosecutor office resource allocation policies. But counties may also incur indeterminate larger payments to the State if the department seeks expense reimbursement from the counties.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 3115**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: DECEMBER 11, 2018

**SUMMARY**

- Synopsis:** Provides that AG handle investigation and prosecution of crime involving person's death by law enforcement officer while acting in officer's official capacity or while in custody; requires trial in venue outside county where incident occurred.
- Type of Impact:** Indeterminate Recurring Fiscal Impacts on State General Fund and County Governments.
- Agencies Affected:** Department of Law and Public Safety, and County Governments.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Fiscal Impact</b>	Indeterminate – See comments below.		
<b>Local Fiscal Impact</b>	Indeterminate – See comments below.		

- The Office of Legislative Services (OLS) finds that the bill will affect annual State and county government finances, as the bill will shift from counties to the State Department of Law and Public Safety the responsibility for investigating and prosecuting crimes involving a person’s death that occurred during an encounter with a law enforcement officer acting in the officer’s official capacity or while the person was in custody. The OLS, however, cannot determine the direction or magnitude of the fiscal net impacts.
- The bill will increase the workload of the Department of Law and Public Safety. Depending on the department’s resource allocation policies, this could cause an indeterminate annual State expenditure increase. The department, however, may be able to recoup any cost increase in part or in full from counties.
- The bill’s recurring net effect on county finances is indeterminate. Counties will experience a workload reduction that could lead to indeterminate recurring in-house expenditure decreases, depending on county prosecutor office resource allocation policies. But counties may also incur indeterminate larger payments to the State if the State Department of Law and Public Safety were to seek expense reimbursements from counties.



## **BILL DESCRIPTION**

This bill shifts from counties to the Office of the Attorney General in the State Department of Law and Public Safety the responsibility for investigating and prosecuting crimes involving a person's death that occurred during an encounter with a law enforcement officer acting in the officer's official capacity or while the person was in custody. Under current law counties conduct the investigations and prosecutions unless the Office of the Attorney General invokes its discretionary power to claim jurisdiction.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS finds that the bill will result in recurring fiscal impacts on the State and county governments in whose jurisdiction arrest-related and custody-related deaths occur. The OLS, however, can determine neither the direction nor the magnitude of the fiscal net impacts.

State Impact: The Department of Law and Public Safety will experience a workload increase, as the bill will shift from counties to the department the responsibility for investigating and prosecuting crimes involving arrest-related and custody-related deaths. Under current law the department may already claim jurisdiction over such investigations and prosecutions.

Depending on department resource allocation policies, the additional workload could cause an indeterminate annual expenditure increase. The department, however, may be able to recoup a portion or all of any cost increase from counties under N.J.S.A.52:17B-108. Subject to certain conditions, the existing law requires a county to reimburse the department for the expenses the department incurs in prosecuting the criminal business of the county. The OLS, however, cannot determine to what extent the bill will increase the department's expenditures and to what extent the department will seek reimbursements therefor from counties.

County Impact: The OLS cannot determine the direction and magnitude of the bill's fiscal net impact on counties. The bill's shifting from counties to the State of the responsibility for the investigation and prosecution of arrest-related and custody-related deaths has the potential to produce two countervailing county cost effects. First, the bill reduces the workload of county prosecutor offices. Depending on the offices' resource allocation policies, the workload reductions may result in indeterminate recurring in-house expenditure decreases. Second, counties may also incur indeterminate larger payments to the State if the State Department of Law and Public Safety were to seek additional expense reimbursements under N.J.S.A.52:17B-108.

Arrest-Related and Custody-Related Deaths Data: According to the U.S. Bureau of Justice Statistics (BJS), reviews of media reports identified 1,348 potential arrest-related deaths (ARDs) nationwide between June 1, 2015 and March 31, 2016, or an average of 135 deaths per month. To confirm and collect more information about the deaths identified through media sources, the BJS conducted a survey of law enforcement agencies and medical examiner offices over the three-month period from June 2015 to August 2015. The survey findings identified 425 ARDs during the three-month period or 12 percent more than the number of deaths identified through

the media review. Of the 425 deaths that occurred from June 2015 to August 2015, 64 percent were homicides, about 18 percent were suicides, and 11 percent were accidents.

The BJS then extrapolated from the three-month data to a full calendar year and estimated that 1,900 ARDs occurred in 2015 nationwide.

In addition, the BJS specified that of the 425 ARDs reported nationwide between June 2015 and August 2015, eight occurred in New Jersey.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



Home Administration ▾ Key Initiatives ▾ News and Events ▾ Social ▾ Contact Us ▾

Newark, N.J.

# Governor Murphy Signs Legislation Modifying Investigations of Law Enforcement-Related Deaths

01/30/2019

**TRENTON** – Today, Governor Phil Murphy signed S1036 into law, providing that the Attorney General handle the investigation and prosecution of a crime involving a person’s death that occurs during an encounter with a law enforcement officer acting in their official capacity or while the decedent was in custody.

"While this bill is a limited solution to a challenging issue, I have concluded that signing this bill will be an important step in improving police-community relations in New Jersey," **said Governor Murphy**. "I know we are a stronger and safer State when every law enforcement officer feels respected and every community feels valued."

Legislative leaders and local officials offered their support of the legislation.

"It is vitally important that deadly encounters resulting from police actions are investigated thoroughly and fairly and that the public trusts the findings," **said Senate President Steve Sweeney**. "Independent investigations that are not associated with the county in which the death occurred will have more credibility and will help remove any perception of a conflict of interest."

"Some of the police-involved shooting deaths that have occurred in multiple states have traumatized their communities and widened the divide between law enforcement officers and the residents they are sworn to protect," **the Senate President continued**. "We have a real problem when a portion of society feels as if the criminal justice system is not protecting them with equal justice. Trust is critical for law enforcement. Requiring independent investigations is beneficial for police officers, the criminal justice system and for the communities they serve and protect."

"As many great civil rights leaders have said, 'the arc of the moral universe is long, but it bends toward justice.' Today is a great day for justice, civil and human rights. I want to thank Governor Murphy for proving yet again his dedication to being progressive, not just in words but in action," **said Assemblywoman Britnee Timberlake**. "Signing this bill, which requires that an independent investigation occur when a person dies in police custody or during an interaction with law enforcement, is a great leap toward authoritative accountability. When administered, this law should be of assistance to officers who are doing the right thing while also sifting out biases that exist amongst those armed with power."

"As the mother of a son, it was important to me to fight for this bill to become a law, a law that will deter the use of excessive force and save lives. Thank you to the advocacy groups who have supported this law, and to the Assembly and Senate leadership, fellow sponsors in both houses, past and present. Without their leadership and courage this would not have been possible. Lastly, to the families of those who have unwarrantedly lost their lives amidst this nationwide issue, here's to justice," **Assemblywoman Timberlake continued**.

"I applaud Governor Murphy for signing this legislation," **said Newark Mayor Ras Baraka**. "It is a step in the right direction."

"I understand this is a hotly debated issue," **said Paterson Mayor Andre Sayegh**. "However, any opportunities to increase transparency and restore public confidence in law enforcement should be explored. We appreciate the Governor's leadership on this issue, as well as the work of our own delegation - sponsors Assemblywoman Shavonda Sumter and Assemblyman Benjie Wimberly, and supporter Senator Nellie Pou."

"The most important goal of any investigation is truth and accuracy so that justice is served," **said New Brunswick Mayor Jim Cahill**. "It is also important that all have faith in the process."

"The placement of the responsibility for these matters with the Attorney General's Office and the procedures provided for in the legislation help to address these objectives and allow for the establishment of a protocol consistent throughout the state," **Mayor Cahill continued**.

The bill was supported by a number of advocacy groups, including representatives of the faith community and communities of color.

"It is with sincere gratitude that I thank Governor Phil Murphy for staying true to his word and for his consistent efforts to be a champion for civil rights and social Justice," **said Richard T. Smith, President – NAACP NJ State Conference**. "Today he has signed an historic piece of legislation that requires that a Prosecutor designated by the Attorney General investigate a police shooting or death in police custody. Across this nation there has been a rash of police shootings against unarmed civilians, overwhelmingly African Americans. I commend Governor Murphy for being a trailblazer in our State because he realizes that this social schism across our nation has bred mistrust, disenfranchisement and alienation in our communities and by his action today he is ensuring that will not be the case in New Jersey!"

"Signing this bill into law is one of the most important actions Gov. Murphy has taken," **said ACLU-NJ Executive Director Amol Sinha**. "With this law in place, New Jersey stands as a national leader in preventing the kinds of conflicts of interest that can arise when local prosecutors investigate the local departments they collaborate with so closely. The Governor recognized that providing accountable, independent investigations does not undermine prosecutors, but strengthens community trust in the fairness of investigations."

"While we realize this law addressing law enforcement-related deaths is not a silver bullet, it is indeed a good start to righting a wrong and creating trust between African Americans and law enforcement," **said Reverend Charles Boyer, pastor of Bethel African Methodist Episcopal Church in Woodbury**. "We are encouraged by the Governor's commitment to a stronger and fairer New Jersey that includes us."

"Our Governor has had a commitment to civil rights social and economic justice before he became Governor and he is continuing this commitment as Governor," **said Reverend Steffie Bartley, Regional Director of the National Action Network**. "I am not surprised that he signed the bill. This is who he is."

"I commend and thank Governor Murphy for signing the Independent Prosecutor bill into law," **said Lawrence Hamm, Chairman of the People's Organization for Progress**. "By signing this bill the Governor once again puts New Jersey at the forefront for social justice. This is a day that will be remembered in the State's legislative history. It is a major step forward in the struggle for criminal justice reform and accountability."

"I commend those legislators that sponsored, supported and voted for the bill," **Mr. Hamm continued**. "And I especially express my deepest gratitude to those community activists all over the state that have been fighting for years to make this reform a reality."

"Today is a great day for the people of New Jersey," **said Reva Foster, President of the New Jersey Black Issues Convention**. "The New Jersey Black Issues Convention applauds Governor Murphy for signing this bill and taking another step to ensure justice. I am pleased that Governor Murphy continues his commitment to ensuring a stronger and fairer New Jersey for all."

A copy of the Governor's signing statement is available [here](#).

[Back to Top](#)

# Governor Phil Murphy

# Statewide

## Home

### Administration

- Governor Phil Murphy
- Lt. Governor Sheila Oliver
- First Lady Tammy Snyder Murphy
- Cabinet
- Boards, Commissions & Authorities
- Internship
- Opportunities
- Governor's Residence - Drumthwacket

## Key Initiatives

- Economy & Jobs
- Education
- Environment
- Health
- Law & Justice
- Transportation

## News & Events

- Press Releases
- Public Addresses
- Executive Orders
- Statements on Legislation
- Administration Reports
- Transition Reports
- Press Kits

## Social

- Facebook
- Twitter
- Instagram
- Snapchat
- YouTube

## Contact Us

- Scheduling Requests
- Contact Us

## NJ Home

- Services A to Z
- Departments/Agencies
- FAQs
- Contact Us
- Privacy Notice
- Legal Statement & Disclaimers
- Accessibility Statement



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**GOVERNOR'S STATEMENT UPON SIGNING  
SENATE BILL NO. 1036**

Today, I am signing Senate Bill No. 1036 into law, providing that the Attorney General handle the investigation and prosecution of a crime involving a person's death that occurs during an encounter with a law enforcement officer acting in their official capacity or while the decedent was in custody.

To be clear, this bill is a limited solution to a challenging issue. By only applying to deaths that occur during an encounter with law enforcement or when an individual is in police custody, the bill would have only governed 14 cases last year. In his testimony last month, Attorney General Grewal appropriately identified several issues that may arise in the implementation of this law. He noted that county law enforcement personnel are typically better situated to conduct an initial investigation than detectives from the Attorney General's Office, who may be coming from other corners of the State with little familiarity with the scene of the incident. Additionally, requiring that all of these cases be handled by the Attorney General's Office, which has staffing constraints, creates the risk of slower investigations and outcomes. And requiring the presentment of evidence to a grand jury, even if a prosecutor does not believe the evidence to be credible, raises difficult questions regarding prosecutors' ethical and professional responsibilities.

While I am mindful of these challenges, I have full confidence that Attorney General Grewal will work within the parameters set forth by the law to ensure that these investigations will be conducted in light of practical realities and will proceed without unnecessary barriers and constraints. I understand that Attorney General Grewal will likely issue guidance outlining how these investigations will be conducted going forward, and I believe that guidance will be enormously helpful in minimizing confusion and clarifying the responsibilities and roles of different levels of law enforcement.

I remain troubled by the mandatory presentment of evidence to a grand jury, and would not be supportive of extending this requirement beyond the small subset of cases contemplated by the bill. Extending mandatory grand-jury presentment to other allegations would be in line with other failed efforts to crack down on crime that have harmed too many communities in this State. Future extensions may lead to an increase in criminal indictments, which could disproportionately and detrimentally impact individuals in communities -- often communities of color -- that have higher instances of interactions with law enforcement. Indeed, extending mandatory grand-jury presentment to other crimes would be a step backwards in our journey to remedy the devastation that resulted from overly harsh and punitive policies from the 1980s and 1990s.

Attorney General Grewal also noted his concern that passage of the bill would send a message to our county prosecutors that they cannot be trusted to impartially handle these highly visible cases. I reject that message. In carrying out my primary responsibility as Governor of

ensuring the safety of all New Jersey residents, I have consistently witnessed that the vast majority of law enforcement officers, from county prosecutors to police officers, act in accordance with the highest professional and ethical standards of their professions. Law enforcement officers put their lives at risk every day to protect the people of our State, and I am enormously grateful for their efforts and sacrifices. Even in the small subset of cases contemplated by the bill, I am confident that law enforcement officers would discharge their responsibilities fairly and in the interests of justice, as they would do in any case.

At the same time, we must acknowledge that there are communities in our State who have raised doubts and voiced concerns with the way police-involved deaths are handled. Many of these doubts can only be understood in the context of our nation's history, which saw state-sanctioned violence against individuals of color for hundreds of years. This history has, at times, produced a lack of trust between law enforcement and some of the communities they serve -- a gap that cannot be erased overnight and that has unfortunately been exacerbated by the irresponsible rhetoric of some of our nation's political leaders. Most of our law enforcement officers have played no role in the development of this gap and work to bridge it every day, but this rift continues to exist and create challenges for law enforcement in its mission of protecting all communities.

A number of communities believe that the enactment of this bill would help ensure impartial investigations of the few instances when a death occurs during an encounter with law enforcement or while an individual is in custody. I have concluded that by eliminating even the appearance of a conflict of interest in this subset of cases, signing this bill will be an important step in improving police-community relations in New Jersey. I know that Attorney General Grewal has spent much of his tenure in office working towards this goal, and I applaud his efforts and stand ready to assist them in any way I can. And I will continue to speak out against those who seek to inflame divisions in our society, because I know we are a stronger and safer State when every law enforcement officer feels respected and every community feels valued.

Date: January 30, 2019

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Deputy Chief Counsel to the Governor