

2015-16 NEW YORK STATE EXECUTIVE BUDGET

EXECUTIVE CRIMINAL JUSTICE REFORM

ACT OF 2015

ARTICLE VII LEGISLATION

MEMORANDUM IN SUPPORT

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A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the criminal procedure law, in
relation to criminal proceedings and the
appointment of an independent monitor, to
amend the executive law, in relation to the
reporting requirements, and to amend the
criminal procedure law, in relation to warrants

Purpose:

To restore the public's trust in New York's criminal justice system, this bill would: strengthen the State's criminal procedure laws as they relate to grand juries and change of venue motions; require additional information on search warrant applications; require a statewide "use of force" policy; and reinforce existing reporting requirements of certain law enforcement activities under the Executive Law.

Statement in Support and Summary of Provisions:

A. Independent Monitor

This bill would create a Governor-appointed "independent monitor" responsible for reviewing certain grand jury investigations. Specifically, the independent monitor would be empowered to review the evidence and facts in every case involving a police officer or peace officer, while acting in his or her official capacity, who may or may not be charged by a grand jury, with causing the death of an unarmed civilian. In those cases where the independent monitor concludes that the district attorney inappropriately declined prosecution or the grand jury presentation did not conform to the law, the monitor shall refer the case to the Governor for purposes of appointing a special prosecutor.

B. Grand Jury Report

This bill would amend CPL §190.85 to require a district attorney to create a grand jury report where a grand jury dismisses charges or declines to return an indictment in instances where the subject of the investigation is a police officer or peace officer charged with causing the death of an unarmed civilian.

C. Change of Venue

This bill would establish an expedited appeals process directly to the Court of Appeals in cases where the appellate division declined a motion for a change of venue.

D. Reporting by Law Enforcement Agencies

This bill would require all state law enforcement agencies to annually report to the Division of Criminal Justice Services (DCJS) the number of arrests made for violations and misdemeanors. The bill would also require law enforcement agencies to annually report to DCJS the number of instances where police conduct may have resulted in the death of a person during the course of executing an arrest for a violation or a misdemeanor. Finally, it would require all law enforcement agencies to file an annual report with DCJS containing race information, and other data, about the subject of each appearance ticket or summons issued by that agency.

E. Statewide Use of Force Policy

The bill would require the Municipal Police and Training Council to create and promulgate statewide, a model "use of force" policy for State and local law enforcement agencies. Additionally, statewide law enforcement agencies would be required to adopt their own use of force policy and may use the MPTC model as a guide.

F. Search Warrant Application

The bill would require that in every application for a search warrant, the applicant must provide the judge with information about whether the search warrant had previously been submitted to that judge or any other judge. Additionally, the applicant must provide the result of the previous submissions and the name or names of the others judges who acted on such submissions.

Budget Implications:

Enactment of this bill is necessary to implement the 2015-16 Executive Budget due to the potential cost of an "independent monitor" appointed by the Governor.

Effective Date:

This bill would take effect thirty days after it is signed into law.