

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 86

Introduced by Assembly Member McCarty

January 6, 2015

An act to add Section 11056 to the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 86, as amended, McCarty. Peace officers: ~~independent review panel.~~ *Department of Justice: independent investigation.*

Existing law *establishes the Department of Justice under the direction and control of the Attorney General, and requires the Department of Justice to perform duties in the investigation of crimes as may be assigned by the Attorney General.* Existing law requires each department or agency in this state that employs peace officers to establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, as specified.

~~This bill would declare the intent of the Legislature to enact legislation that would establish, within the Department of Justice, an independent review panel to investigate and provide an independent review of peace officer involved shootings and other uses of force resulting in death.~~

This bill would require the Attorney General to direct the commencement of an independent investigation by the Department of Justice if a peace officer, in the performance of his or her duties, uses deadly physical force upon another person and that person dies as a result of the use of that deadly physical force. The bill would require the department, based on its investigation, to prepare and submit a written report setting forth specified information and recommendations

to the Attorney General and to the district attorney and law enforcement agency of the county in which the use of deadly physical force by a peace officer occurred. The bill would require the Attorney General to post each written report on the department’s Internet Web site unless any information in the report is required to be maintained as confidential by any other law.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11056 is added to the Penal Code, to
 2 read:
 3 11056. (a) (1) If a peace officer, in the performance of his or
 4 her duties, uses deadly physical force upon another person and
 5 that person dies as a result of the use of that deadly physical force,
 6 the Attorney General shall direct the commencement of an
 7 independent investigation by the Department of Justice concerning
 8 the use of deadly physical force by that peace officer.
 9 (2) For purposes of this section, the occurrence of the use of
 10 deadly physical force by a peace officer resulting in death shall
 11 be referred to as a triggering event.
 12 (b) Pursuant to this investigation, the department shall
 13 determine all of the following:
 14 (A) Whether the use of deadly physical force by the peace officer
 15 constituted a crime.
 16 (B) Whether use of deadly physical force was in violation of a
 17 policy adopted by the law enforcement agency that employs the
 18 peace officer.
 19 (C) Whether the use of deadly physical force could have been
 20 avoided.
 21 (c) Upon the conclusion of an investigation, the department
 22 shall prepare and submit a written report to the Attorney General
 23 and to the district attorney and law enforcement agency of the
 24 county in which the triggering event occurred. The written report
 25 shall include, at a minimum, all of the following information:
 26 (1) A statement of facts.
 27 (2) A detailed analysis and conclusion for each investigatory
 28 issue described in subdivision (b).

1 (3) Recommendations regarding whether there is a basis to
2 undertake any of the following actions:

3 (A) Prosecute.

4 (B) Modify the policies and practices of the law enforcement
5 agency that employed the peace officer who was subject to
6 investigation under this section.

7 (d) The Attorney General shall post and maintain, in a
8 conspicuous location, on the Department of Justice's Internet Web
9 site each written report prepared pursuant to subdivision (c) unless
10 any information in the report is required to be maintained as
11 confidential by any other law.

12 ~~SECTION 1. It is the intent of the Legislature to enact~~
13 ~~legislation to establish, within the Department of Justice, an~~
14 ~~independent review panel to investigate and provide an independent~~
15 ~~review of peace officer involved shootings and other uses of force~~
16 ~~resulting in death.~~