

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1118 Session of 2015

INTRODUCED BY VEREB, MARSICO, CUTLER, BAKER, BARRAR, D. COSTA, DIAMOND, JAMES, KAUFFMAN, KOTIK, LAWRENCE, MILLARD, MURT, WATSON, MILNE, HEFFLEY AND GABLER, MAY 6, 2015

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 27, 2015

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for independent counsel; and
3 making an editorial change; AND <--
4 AMENDING THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164), ENTITLED
5 "A SUPPLEMENT TO THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
6 ENTITLED "AN ACT PROVIDING FOR AND REORGANIZING THE CONDUCT
7 OF THE EXECUTIVE AND ADMINISTRATIVE WORK OF THE COMMONWEALTH
8 BY THE EXECUTIVE DEPARTMENT THEREOF AND THE ADMINISTRATIVE
9 DEPARTMENTS, BOARDS, COMMISSIONS, AND OFFICERS THEREOF,
10 INCLUDING THE BOARDS OF TRUSTEES OF STATE NORMAL SCHOOLS, OR
11 TEACHERS COLLEGES; ABOLISHING, CREATING, REORGANIZING OR
12 AUTHORIZING THE REORGANIZATION OF CERTAIN ADMINISTRATIVE
13 DEPARTMENTS, BOARDS, AND COMMISSIONS; DEFINING THE POWERS AND
14 DUTIES OF THE GOVERNOR AND OTHER EXECUTIVE AND ADMINISTRATIVE
15 OFFICERS, AND OF THE SEVERAL ADMINISTRATIVE DEPARTMENTS,
16 BOARDS, COMMISSIONS, AND OFFICERS; FIXING THE SALARIES OF THE
17 GOVERNOR, LIEUTENANT GOVERNOR, AND CERTAIN OTHER EXECUTIVE
18 AND ADMINISTRATIVE OFFICERS; PROVIDING FOR THE APPOINTMENT OF
19 CERTAIN ADMINISTRATIVE OFFICERS, AND OF ALL DEPUTIES AND
20 OTHER ASSISTANTS AND EMPLOYES IN CERTAIN DEPARTMENTS, BOARDS,
21 AND COMMISSIONS; AND PRESCRIBING THE MANNER IN WHICH THE
22 NUMBER AND COMPENSATION OF THE DEPUTIES AND ALL OTHER
23 ASSISTANTS AND EMPLOYES OF CERTAIN DEPARTMENTS, BOARDS AND
24 COMMISSIONS SHALL BE DETERMINED," IMPLEMENTING THE ADDITION
25 OF SECTION 4.1 TO ARTICLE IV OF THE CONSTITUTION OF
26 PENNSYLVANIA; ESTABLISHING THE OFFICE OF ATTORNEY GENERAL
27 ELECTED BY THE CITIZENS AND SETTING FORTH POWERS AND DUTIES
28 OF THE ATTORNEY GENERAL; CREATING AN OFFICE OF GENERAL
29 COUNSEL AND PROVIDING FOR LEGAL SERVICES FOR COMMONWEALTH
30 AGENCIES; TRANSFERRING, REORGANIZING OR RECONSTITUTING
31 CERTAIN BOARDS, COMMISSIONS AND AGENCIES; PLACING CERTAIN
32 DUTIES UPON THE COURTS AND DISTRICT ATTORNEYS; REPEALING

1 CERTAIN ACTS AND PARTS OF ACTS AND MAKING APPROPRIATIONS," IN
2 OFFICE OF ATTORNEY GENERAL, FURTHER PROVIDING FOR CRIMINAL
3 PROSECUTIONS; AND, IN OFFICE OF GENERAL COUNSEL, PROVIDING
4 FOR INVESTIGATIONS INVOLVING THE ATTORNEY GENERAL.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Chapter 93 of Title 18 of the Pennsylvania
8 Consolidated Statutes is repealed:

9 [§ 9301. Short title of chapter.

10 This chapter shall be known and may be cited as the
11 Independent Counsel Authorization Act. § 9302. Definitions.

12 The following words and phrases when used in this chapter
13 shall have, unless the context clearly indicates otherwise, the
14 meanings given to them in this section:

15 "General Counsel." The General Counsel of the Commonwealth.

16 "Grounds to investigate." Information which would lead a
17 reasonable person to suspect that a crime is being or has been
18 committed.

19 "Independent counsel." A person appointed by the Special
20 Independent Prosecutor's Panel upon the request of a special
21 investigative counsel.

22 "Panel." The Special Independent Prosecutor's Panel
23 established under this chapter.

24 "Special investigative counsel." A person appointed by the
25 General Counsel to conduct a preliminary investigation under
26 this chapter.

27 § 9311. Organization of panel.

28 (a) Composition and selection.--The Special Independent
29 Prosecutor's Panel shall be composed of one judge of the
30 Commonwealth Court and two judges, including senior judges, of
31 the courts of common pleas of the Commonwealth. The members of
32 the panel shall be chosen by lot. The procedure shall be

1 determined by and supervised by the Court Administrator of
2 Pennsylvania in the Administrative Office of Pennsylvania
3 Courts. The Administrative Office of Pennsylvania Courts shall
4 disclose to the public the membership of the panel.

5 (b) Term of members.--Each member of the panel shall hold
6 office for a term of three years. Judges who are members of the
7 panel and are required to retire under section 16 of Article V
8 of the Constitution of Pennsylvania shall also vacate their
9 positions on the panel unless assigned under Chapter 7 of the
10 Rules of Judicial Administration. A judge who is otherwise
11 removed or suspended from office shall automatically forfeit the
12 position held by that judge on the panel.

13 (c) Vacancies.--Any vacancy in the panel shall be filled
14 only for the remainder of the three-year period in which the
15 vacancy occurs and in the same manner as initial assignments to
16 the panel were made.

17 (d) Decisions by majority vote.--All decisions of the panel
18 shall be by majority vote of the members.

19 (e) Clerk.--The Prothonotary of Commonwealth Court shall
20 serve as the clerk of the panel and shall provide such services
21 as are needed by the panel.

22 (f) Restriction.--No member of the panel who participated in
23 a function conferred on the panel under this chapter involving
24 an independent counsel shall be eligible to participate in any
25 judicial proceeding concerning a matter which involves the
26 independent counsel and which involves the exercise of the
27 independent counsel's official duties, regardless of whether the
28 independent counsel is still serving in that office.

29 § 9312. Preliminary investigation.

30 (a) Preliminary investigation with respect to certain

1 covered persons.--The General Counsel shall appoint a special
2 investigative counsel to conduct a preliminary investigation in
3 accordance with this chapter whenever the General Counsel
4 receives information sufficient to constitute grounds to
5 investigate whether any person described in subsection (c) may
6 have committed any of the following:

7 (1) An offense which is classified higher than a
8 misdemeanor of the second degree.

9 (2) An offense which is classified higher than a summary
10 offense and which involves a breach of the public trust. This
11 paragraph includes a violation of the act of June 3, 1937
12 (P.L.1333, No.320), known as the Pennsylvania Election Code,
13 or the act of October 4, 1978 (P.L.883, No.170), referred to
14 as the Public Official and Employee Ethics Law.

15 (b) Preliminary investigation with respect to persons not
16 listed in subsection (c).--The Attorney General shall request
17 the General Counsel to appoint a special investigative counsel
18 to conduct a preliminary investigation under the jurisdiction
19 established or conferred under section 205(b) of the act of
20 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
21 Attorneys Act, and where the Attorney General determines that an
22 investigation or prosecution of the person, with respect to the
23 information received, by the Attorney General or other officer
24 of the Attorney General's office may result in a personal,
25 financial or political conflict of interest. In addition, the
26 Attorney General may request the General Counsel to appoint a
27 special investigative counsel to conduct a preliminary
28 investigation where the Attorney General determines that an
29 investigation or prosecution of the person, with respect to the
30 information received, by the Attorney General or other officer

1 of the Attorney General's office may result in a personal,
2 financial or political conflict of interest.

3 (c) Persons to whom subsection (a) applies.--The persons
4 referred to in subsection (a) are as follows:

5 (1) The Attorney General, any Deputy Attorney General or
6 any individual working in the Attorney General's office who
7 is defined as a "public employee" under the Public Official
8 and Employee Ethics Law.

9 (2) Any individual who leaves any office or position
10 described in paragraph (1) during the incumbency of the
11 Attorney General with or under whom such individual served in
12 the office or position, plus one year after such incumbency,
13 but in no event longer than a period of three years after the
14 individual leaves the office or position.

15 (3) Any individual who held an office or position
16 described in paragraph (1) during the incumbency of one
17 Attorney General and who continued to hold the office or
18 position for not more than 90 days into the term of the next
19 Attorney General, during the one-year period after the
20 individual leaves the office or position.

21 (4) The chairman and treasurer of the principal campaign
22 committee seeking the election or reelection of the Attorney
23 General, and any officer of that committee exercising
24 authority at the State level, during the incumbency of the
25 elected Attorney General.

26 (d) Examination of information to determine need for
27 preliminary investigation.--In determining under subsection (a)
28 whether grounds to investigate exist, the General Counsel shall
29 consider only the specificity of the information received and
30 the credibility of the source of the information. The General

1 Counsel shall determine whether grounds to investigate exist no
2 later than 30 days after the information is first received. If
3 within that 30-day period the General Counsel determines that
4 the information is not specific or is not from a credible
5 source, then the General Counsel shall close the matter. If
6 within that 30-day period the General Counsel determines that
7 the information is specific and from a credible source, the
8 General Counsel shall, upon making that determination, appoint a
9 special investigative counsel to commence a preliminary
10 investigation with respect to that information. If the General
11 Counsel is unable to determine within that 30-day period whether
12 the information is specific and from a credible source, the
13 General Counsel shall at the end of that 30-day period appoint a
14 special investigative counsel to commence a preliminary
15 investigation with respect to that information. If a special
16 investigative counsel is appointed, the special investigative
17 counsel may only accept the appointment when such appointment
18 would not conflict with the rules governing professional
19 conduct.

20 § 9313. Conduct of preliminary investigation.

21 (a) In general.--A preliminary investigation conducted under
22 this chapter shall be of matters as the special investigative
23 counsel considers appropriate in order to make a determination
24 under section 9314 (relating to determination that further
25 investigation not warranted) or 9315 (relating to determination
26 that further investigation is warranted) of whether further
27 investigation is warranted with respect to each potential
28 violation or allegation of a violation of criminal law. The
29 special investigative counsel shall make the determination no
30 later than 90 days after the preliminary investigation is

1 commenced. The special investigative counsel shall promptly
2 notify the panel of the date of the commencement of the
3 preliminary investigation.

4 (b) Limited authority of special investigative counsel.--

5 (1) In conducting preliminary investigations under this
6 chapter, the special investigative counsel shall have no
7 authority to convene grand juries, plea bargain, grant
8 immunity or issue subpoenas.

9 (2) The special investigative counsel shall not base a
10 determination under this chapter that information with
11 respect to a violation of criminal law by a person is not
12 specific and from a credible source upon a determination that
13 the person lacked the state of mind required for the
14 violation of criminal law. The special investigative counsel
15 shall not base a determination under this chapter that there
16 are no reasonable grounds to believe that further
17 investigation is warranted upon a determination that the
18 person lacked the state of mind required for the violation of
19 criminal law involved unless there is clear and convincing
20 evidence that the person lacked the required state of mind.

21 (c) Extension of time for preliminary investigation.--The
22 special investigative counsel may apply to the panel for a
23 single extension, for a period of no more than 60 days, of the
24 90-day period referred to in subsection (a). The panel may, upon
25 a showing of good cause, grant the extension.

26 § 9314. Determination that further investigation not warranted.

27 (a) Notification of panel.--If the special investigative
28 counsel upon completion of a preliminary investigation under
29 this chapter determines that there are no reasonable grounds to
30 believe that further investigation is warranted, the special

1 investigative counsel shall promptly so notify the panel, and
2 the panel shall have no power to appoint an independent counsel
3 with respect to the matters involved.

4 (b) Form of notification.--The notification shall contain a
5 summary of the information received and a summary of the results
6 of the preliminary investigation. The summary shall be
7 confidential and not subject to public disclosure, except that
8 the person who was the subject of the investigation may request
9 a copy of the summary from the panel.

10 § 9315. Determination that further investigation is warranted.

11 (a) Application for appointment of independent counsel.--The
12 special investigative counsel shall apply to the panel for the
13 appointment of an independent counsel if:

14 (1) the special investigative counsel, upon completion
15 of a preliminary investigation under this chapter, determines
16 that there are reasonable grounds to believe that further
17 investigation is warranted; or

18 (2) the 90-day period referred to in section 9313(a)
19 (relating to conduct of preliminary investigation) and any
20 extension granted under section 9313(c) have elapsed and the
21 special investigative counsel has not filed a notification
22 with the panel under section 9314(a) (relating to
23 determination that further investigation not warranted).

24 (b) Receipt of additional information.--If, after submitting
25 a notification under section 9314(a), the special investigative
26 counsel receives additional information sufficient to constitute
27 grounds to investigate the matters to which the notification
28 related, the special investigative counsel shall:

29 (1) Conduct an additional preliminary investigation as
30 the special investigative counsel considers appropriate for a

1 period of no more than 90 days after the date on which the
2 additional information is received.

3 (2) Otherwise comply with the provisions of this
4 subchapter with respect to the additional preliminary
5 investigation to the same extent as any other preliminary
6 investigation under this chapter.

7 § 9316. Contents of application.

8 Any application for the appointment of an independent counsel
9 under this chapter shall contain sufficient information to
10 assist the panel in selecting an independent counsel and in
11 defining that independent counsel's prosecutorial jurisdiction
12 so that the independent counsel has adequate authority to fully
13 investigate and prosecute the subject matter and all matters
14 related to that subject matter.

15 § 9317. Disclosure of information.

16 Except as otherwise provided in this chapter, no officer or
17 employee of the office of special investigative counsel or the
18 office of independent counsel may, without leave of the panel,
19 disclose to any individual outside the office of special
20 investigative counsel or office of independent counsel any
21 notification, application or any other document, material or
22 memorandum supplied to the panel under this chapter. Nothing in
23 this chapter shall be construed as authorizing the withholding
24 of information from the General Assembly.

25 § 9318. Limitation on judicial review.

26 The determination of the special investigative counsel under
27 this chapter to apply to the panel for the appointment of an
28 independent counsel shall not be reviewable in any court.

29 § 9319. Duties of panel.

30 (a) Appointment and jurisdiction of independent counsel.--

1 (1) Upon receipt of an application, the panel shall
2 appoint an appropriate independent counsel and shall define
3 that independent counsel's prosecutorial jurisdiction. The
4 appointment shall occur no later than 30 days after the
5 receipt of the application.

6 (2) The panel shall appoint as independent counsel an
7 individual who has appropriate experience and who will
8 conduct the investigation and any prosecution in a prompt,
9 responsible and cost-effective manner. The panel shall seek
10 to appoint as independent counsel an individual who will
11 serve to the extent necessary to complete the investigation
12 and any prosecution without undue delay. The panel may not
13 appoint as an independent counsel any person who holds any
14 office of profit or trust with the Commonwealth. No person
15 who is serving as a special investigative counsel may be
16 appointed or serve as an independent counsel in the matter
17 for which they had been appointed to investigate as special
18 investigative counsel. If an independent counsel is
19 appointed, the independent counsel may only accept the
20 appointment when such appointment would not conflict with the
21 rules governing professional conduct.

22 (3) In defining the independent counsel's prosecutorial
23 jurisdiction, the panel shall assure that the independent
24 counsel has adequate authority to fully investigate and
25 prosecute the subject matter with respect to which the
26 special investigative counsel has requested the appointment
27 of the independent counsel and all matters related to that
28 subject matter. Jurisdiction shall also include the authority
29 to investigate and prosecute the following offenses which may
30 arise out of the investigation with respect to which the

1 special investigative counsel's request was made:

2 (i) An offense classified higher than a misdemeanor
3 of the second degree.

4 (ii) An offense which is classified higher than a
5 summary offense and which involves a breach of the public
6 trust. This paragraph includes a violation of the act of
7 June 3, 1937 (P.L.1333, No.320), known as the
8 Pennsylvania Election Code, or the act of October 4, 1978
9 (P.L.883, No.170), referred to as the Public Official and
10 Employee Ethics Law.

11 (4) The panel shall disclose the identity of the
12 independent counsel upon appointment.

13 (b) Expansion of jurisdiction.--

14 (1) The panel upon the request of the General Counsel
15 may expand the prosecutorial jurisdiction of an independent
16 counsel. The expansion may be in lieu of the appointment of
17 another independent counsel.

18 (2) If the independent counsel discovers or receives
19 information about possible violations of criminal law by
20 persons as provided in section 9312 (relating to preliminary
21 investigation) which are not covered by the prosecutorial
22 jurisdiction of the independent counsel, the independent
23 counsel may submit the information to the General Counsel. In
24 accordance with this subchapter, the General Counsel shall
25 appoint a special investigative counsel to conduct a
26 preliminary investigation of the information, except that the
27 preliminary investigation shall not exceed 30 days from the
28 date the information is received. In making the
29 determinations required by this subchapter, the special
30 investigative counsel shall give great weight to any

1 recommendations of the independent counsel.

2 (3) If the special investigative counsel determines,
3 after according great weight to the recommendations of the
4 independent counsel, that there are no reasonable grounds to
5 believe that further investigation is warranted, the special
6 investigative counsel shall promptly so notify the panel, and
7 the panel shall have no power to expand the jurisdiction of
8 the independent counsel or to appoint another independent
9 counsel with respect to the matters involved.

10 (4) The panel shall expand the jurisdiction of the
11 appropriate independent counsel to include the matters
12 involved or shall appoint another independent counsel to
13 investigate the matters if:

14 (i) the special investigative counsel determines
15 that there are reasonable grounds to believe that further
16 investigation is warranted; or

17 (ii) the 30-day period referred to in paragraph (2)
18 elapses without a notification to the panel that no
19 further investigation is warranted.

20 (5) If the independent counsel discovers or receives
21 information about possible violations of criminal law by
22 persons other than those provided for in section 9312 and
23 which are not covered by the prosecutorial jurisdiction of
24 the independent counsel and a request for expansion under
25 this subsection has not been made by the General Counsel or
26 the request for expansion under this subsection has been
27 denied by the panel, the independent counsel shall submit the
28 information to the appropriate law enforcement authority.

29 (c) Return for further explanation.--Upon receipt of a
30 notification under this subchapter that there are no reasonable

1 grounds to believe that further investigation is warranted with
2 respect to information received under this chapter, the panel
3 shall have no authority to overrule this determination but may
4 return the matter to the special investigative counsel for
5 further explanation of the reasons for the determination.

6 (d) Vacancies.--If a vacancy in office arises by reason of
7 the resignation, death or removal of an independent counsel, the
8 panel shall appoint an independent counsel to complete the work
9 of the independent counsel whose resignation, death or removal
10 caused the vacancy, except that, in the case of a vacancy
11 arising by reason of the removal of an independent counsel, the
12 panel may appoint an acting independent counsel to serve until
13 any judicial review of the removal is completed.

14 § 9331. Authorities.

15 Notwithstanding any other provision of law, an independent
16 counsel appointed under this chapter shall have, with respect to
17 all matters in the independent counsel's prosecutorial
18 jurisdiction established under this chapter, full power and
19 independent authority to exercise all investigative and
20 prosecutorial functions and powers of the Office of Attorney
21 General, the Attorney General and any other officer or employee
22 of the Office of Attorney General. Investigative and
23 prosecutorial functions and powers shall include, but are not
24 limited to:

25 (1) Conducting proceedings before grand juries and other
26 investigations.

27 (2) Participating in court proceedings and engaging in
28 any litigation, including civil and criminal matters, that
29 the independent counsel considers necessary.

30 (3) Appealing any decision of a court in any case or

1 proceeding in which the independent counsel participates in
2 an official capacity.

3 (4) Reviewing all documentary evidence available from
4 any source.

5 (5) Determining whether to contest the assertion of any
6 testimonial privilege.

7 (6) Receiving appropriate security clearances and, if
8 necessary, contesting in court, including, where appropriate,
9 participating in an in camera proceeding, any claim of
10 privilege or attempt to withhold evidence on grounds of
11 security.

12 (7) Making applications to any State court for a grant
13 of immunity to any witness, consistent with applicable
14 statutory requirements, or for warrants, subpoenas or other
15 court orders and exercising the authority vested in the
16 Attorney General or a district attorney.

17 (8) Inspecting, obtaining or using the original or a
18 copy of any tax return in accordance with applicable statutes
19 and regulations.

20 (9) Initiating and conducting prosecutions in any court
21 of competent jurisdiction, framing and signing indictments,
22 filing information and handling all aspects of any case in
23 the name of the Commonwealth.

24 (10) Consulting with the district attorney for the
25 county in which any violation of law with respect to which
26 the independent counsel is appointed was alleged to have
27 occurred.

28 § 9332. Compensation and travel expenses.

29 An independent counsel appointed under this chapter shall
30 receive compensation at the per diem rate equal to the annual

1 rate of basic pay payable to the Attorney General. An
2 independent counsel and persons appointed under section 9333
3 (relating to additional personnel) shall be entitled to the
4 payment of travel expenses.

5 § 9333. Additional personnel.

6 For the purposes of carrying out the duties of the office of
7 independent counsel, the independent counsel may appoint, fix
8 the compensation and assign the duties of the employees the
9 independent counsel considers necessary, including, but not
10 limited to, investigators, attorneys and necessary experts to
11 assist with the criminal investigation. The positions of these
12 employees are exempted from the competitive service. Employees
13 shall be compensated at levels not to exceed those payable for
14 comparable positions in the Office of Attorney General.

15 § 9334. Assistance of Pennsylvania State Police.

16 (a) Carrying out functions.--An independent counsel may
17 request assistance from the Pennsylvania State Police in
18 carrying out the functions of the independent counsel, and the
19 Pennsylvania State Police shall provide that assistance, which
20 may include the use of the resources and personnel necessary to
21 perform the independent counsel's duties.

22 (b) Payment of and reports on expenditures of independent
23 counsel.--Upon the request of the Governor, the General Assembly
24 shall appropriate the necessary funds to the State Treasurer for
25 the use and operation in executing the duties and
26 responsibilities of the position of independent counsel. Upon
27 the request of the Governor, the General Assembly shall
28 appropriate the necessary funds to the Pennsylvania State Police
29 for costs incurred when rendering assistance to the independent
30 counsel as provided for under subsection (a). The State

1 Treasurer shall submit to the General Assembly, no later than 30
2 days after the end of each fiscal year, a report on amounts paid
3 during that fiscal year for expenses of investigations and
4 prosecutions by independent counsel. Each report shall include a
5 statement of all payments made for activities of independent
6 counsel.

7 § 9335. Referral of other matters to independent counsel.

8 An independent counsel may ask the panel to refer to the
9 independent counsel matters related to the independent counsel's
10 prosecutorial jurisdiction, and the panel may refer these
11 matters. If the Attorney General refers a matter to an
12 independent counsel on the Attorney General's own initiative,
13 the independent counsel may accept the referral if the matter
14 relates to the independent counsel's prosecutorial jurisdiction.

15 § 9336. Dismissal of matters.

16 The independent counsel shall have full authority to dismiss
17 matters within the independent counsel's prosecutorial
18 jurisdiction without conducting an investigation or at any
19 subsequent time before prosecution.

20 § 9337. Reports by independent counsel.

21 (a) Required reports.--An independent counsel shall:

22 (1) File with the panel, with respect to the six-month
23 period beginning on the date of his appointment and with
24 respect to each six-month period thereafter until the office
25 of that independent counsel terminates, a report which
26 identifies and explains major expenses, summarizes all other
27 expenses incurred by that office during the six-month period
28 with respect to which the report is filed and estimates
29 future expenses of that office.

30 (2) Before the termination of the independent counsel's

1 office under section 9343(b) (relating to removal of
2 independent counsel and termination of office), file a final
3 report with the panel, setting forth fully and completely a
4 description of all prosecutions. All other information shall
5 be confidential and not subject to public disclosure.

6 (b) Disclosure of information in reports.--The panel may
7 release to the General Assembly, the Governor, the State
8 Treasurer, the public or any appropriate person the portions of
9 a report made under this section as the panel considers
10 appropriate. The panel shall make any orders as are appropriate
11 to protect the rights of any individual named in the report and
12 to prevent undue interference with any pending prosecution. The
13 panel may make any portion of a final report filed under
14 subsection (a) (2) available to any individual named in the
15 report for the purposes of receiving within a time limit set by
16 the panel any comments or factual information that the
17 individual may submit. The comments and factual information, in
18 whole or in part, may in the discretion of the panel be included
19 as an appendix to the final report.

20 § 9338. Independence from Office of Attorney General.

21 Each independent counsel appointed under this chapter and the
22 persons appointed by that independent counsel under section 9333
23 (relating to additional personnel) are separate from and
24 independent of the Office of Attorney General.

25 § 9339. Standards of conduct applicable to independent counsel,
26 persons serving in office of independent counsel and
27 their law firms.

28 (a) Restrictions on employment while independent counsel and
29 appointees are serving.--During the period in which an
30 independent counsel is serving under this chapter, the

1 independent counsel and any person associated with a firm with
2 which the independent counsel is associated may not represent in
3 any matter any person involved in any investigation or
4 prosecution under this chapter. During the period in which any
5 person appointed by an independent counsel under section 9333
6 (relating to additional personnel) is serving in the office of
7 independent counsel, the person may not represent in any matter
8 any person involved in any investigation or prosecution under
9 this chapter.

10 (b) Postemployment restrictions on independent counsel and
11 appointees.--

12 (1) Each independent counsel and each person appointed
13 by that independent counsel under section 9333 may not for
14 three years following the termination of service under this
15 chapter of that independent counsel or appointed person, as
16 the case may be, represent any person in any matter if that
17 individual was the subject of an investigation or prosecution
18 conducted by that independent counsel under this chapter.

19 (2) Each independent counsel and each person appointed
20 by that independent counsel under section 9333 may not for
21 one year following the termination of service under this
22 chapter of that independent counsel or appointed person, as
23 the case may be, represent any person in any matter involving
24 any investigation or prosecution under this chapter.

25 (c) One-year ban on representation by members of firms of
26 independent counsel.--Any person who is associated with a firm
27 with which an independent counsel is associated or becomes
28 associated after termination of service of that independent
29 counsel under this chapter may not for one year following the
30 termination represent any person in any matter involving any

1 investigation or prosecution under this chapter.

2 (d) Definitions.--As used in this section, the following
3 words and phrases shall have the meanings given to them in this
4 subsection:

5 "Associated with a firm." A person who is an officer,
6 director, partner or other member or employee of a law firm.

7 "Firm." A law firm, whether organized as a partnership or
8 corporation.

9 § 9340. Custody of records of independent counsel.

10 (a) Transfer of records.--Upon termination of the office of
11 independent counsel, that independent counsel shall transfer to
12 the Bureau of Archives and History of the Pennsylvania
13 Historical and Museum Commission all records which have been
14 created or received by that office. Before this transfer, the
15 independent counsel shall clearly identify which of these
16 records are subject to the Pennsylvania Rules of Criminal
17 Procedure as grand jury materials.

18 (b) Maintenance, use and disposal of records.--Records
19 transferred to the Bureau of Archives and History under this
20 section shall be maintained, used and disposed of as provided by
21 law.

22 § 9341. Cost controls and administrative support.

23 (a) Cost controls.--An independent counsel shall:

24 (1) Conduct all activities with due regard for expense.

25 (2) Authorize only reasonable and lawful expenditures.

26 (3) Promptly upon taking office assign to a specific
27 employee the duty of certifying that expenditures of the
28 independent counsel are reasonable and made in accordance
29 with law.

30 (b) Office of Administration policies.--An independent

1 counsel shall comply with the established policies of the Office
2 of Administration of the Governor respecting expenditures of
3 funds, except to the extent that compliance would be
4 inconsistent with the purposes of this chapter.

5 § 9342. Legislative oversight.

6 (a) Oversight of conduct of independent counsel.--An
7 independent counsel appointed under this chapter shall submit to
8 the General Assembly a report detailing all moneys expended as
9 required under section 9337(a)(1) (relating to reports by
10 independent counsel). In addition, the independent counsel shall
11 submit annually a report on the activities of the independent
12 counsel, including a description of the progress of any
13 investigation or prosecution conducted by the independent
14 counsel. The report may omit any matter that in the judgment of
15 the independent counsel should be kept confidential but shall
16 provide information adequate to justify the expenditures that
17 the office of the independent counsel has made.

18 (b) Information relating to impeachment.--An independent
19 counsel shall advise the House of Representatives of any
20 substantial and credible information which the independent
21 counsel receives in carrying out the independent counsel's
22 responsibilities under this chapter that may constitute grounds
23 for an impeachment. Nothing in this chapter shall prevent the
24 General Assembly or either house thereof from obtaining
25 information in the course of an impeachment proceeding.

26 § 9343. Removal of independent counsel and termination of
27 office.

28 (a) Removal, report on removal and termination.--

29 (1) An independent counsel appointed under this chapter
30 may be removed from office only by the personal action of the

1 General Counsel and only for good cause, physical disability,
2 mental incapacity or any other condition that substantially
3 impairs the performance of the independent counsel's duties.
4 For purposes of this paragraph, the term "good cause"
5 includes, but is not limited to, violations of any ethical
6 rules governing the independent counsel, the Attorney General
7 or district attorneys.

8 (2) If an independent counsel is removed from office,
9 the General Counsel shall promptly submit to the panel, the
10 Judiciary Committee of the Senate and the Judiciary Committee
11 of the House of Representatives a report specifying the facts
12 found and the ultimate grounds for the removal. The
13 committees may make available to the public the report,
14 except that each committee may, if necessary to protect the
15 rights of any individual named in the report or to prevent
16 undue interference with any pending prosecution, postpone or
17 refrain from publishing any or all of the report. The panel
18 may release any or all of the report in accordance with
19 section 9337(b) (relating to reports by independent counsel).

20 (3) An independent counsel removed from office may
21 obtain judicial review of the removal in a civil action
22 commenced in the Commonwealth Court. The independent counsel
23 may be reinstated or granted other appropriate relief by
24 order of the Commonwealth Court. A member of the panel may
25 not hear or determine any such civil action or any appeal of
26 a decision in any such civil action.

27 (b) Termination of office.--

28 (1) An office of independent counsel shall terminate
29 when the independent counsel:

30 (i) notifies the panel that the investigation of all

1 matters within the prosecutorial jurisdiction of the
2 independent counsel or accepted by the independent
3 counsel, and any resulting prosecutions, have been
4 completed; and

5 (ii) files a final report in compliance with section
6 9337.

7 (2) The panel shall determine on its own motion whether
8 termination is appropriate under this subsection no later
9 than two years after the appointment of an independent
10 counsel or the reported expenditures of the independent
11 counsel have reached \$2,000,000, whichever occurs first, and
12 at the end of each succeeding one-year period.

13 § 9344. Audits.

14 By December 31 of each year, an independent counsel shall
15 prepare a statement of expenditures for the fiscal year that
16 ended on the immediately preceding June 30. An independent
17 counsel whose office is terminated prior to the end of the
18 fiscal year shall prepare a statement of expenditures within 90
19 days of the date on which the office is terminated. The Auditor
20 General shall audit each statement and report the results of
21 each audit to the appropriate committees of the General Assembly
22 no later than March 31 of the year following the submission of
23 the statement.

24 § 9345. Relationship with Office of Attorney General.

25 Whenever a matter is in the prosecutorial jurisdiction of an
26 independent counsel or has been accepted by an independent
27 counsel under section 9335 (relating to referral of other
28 matters to independent counsel), the Office of Attorney General,
29 the Attorney General, all other officers and employees of the
30 Office of Attorney General and any district attorney shall

1 suspend all investigations and proceedings regarding that matter
2 and shall turn over to the independent counsel all materials,
3 files and other data relating to that matter.

4 § 9346. Venue.

5 The proper venue for all prosecutions conducted by the
6 independent counsel shall be determined in accordance with the
7 Pennsylvania Rules of Criminal Procedure. For the purposes of
8 convenience and fairness, the panel may, however, set the venue
9 in any other county on its own motion or at the request of the
10 independent counsel or on petition of the defendant.

11 § 9351. Severability of chapter.

12 The provisions of this chapter are severable. If any
13 provision of this chapter or its application to any person or
14 circumstance is held invalid, the invalidity shall not affect
15 other provisions or applications of this chapter which can be
16 given effect without the invalid provision or application.

17 § 9352. Expiration of chapter.

18 This chapter shall expire five years after the date of the
19 enactment of this chapter, except with respect to any matters
20 pending before an independent counsel that in the judgment of
21 the independent counsel require continuation. Matters shall be
22 continued until the independent counsel determines the matters
23 are completed.]

24 Section 2. Title 18 is amended by adding a chapter to read:

25 CHAPTER 95

26 INDEPENDENT COUNSEL

27 Subchapter

28 A. Preliminary Provisions

29 B. General Provisions

30 C. Authority and Duties of Independent Counsel

1 D. Miscellaneous Provisions

2 SUBCHAPTER A

3 PRELIMINARY PROVISIONS

4 Sec.

5 9501. Scope of chapter.

6 9502. Definitions.

7 § 9501. Scope of chapter.

8 This chapter relates to independent counsel.

9 § 9502. Definitions.

10 The following words and phrases when used in this chapter
11 shall have, unless the context clearly indicates otherwise, the
12 meanings given to them in this section:

13 "General Counsel." The General Counsel of the Commonwealth.

14 "Grounds to investigate." Information which would lead a
15 reasonable person to suspect that a crime is being or has been
16 committed.

17 "Independent counsel." A person appointed by the Special
18 Independent Prosecutor's Panel upon the request of a special
19 investigative counsel.

20 "Panel." The Special Independent Prosecutor's Panel
21 established under this chapter.

22 "Special investigative counsel." A person appointed by the
23 General Counsel to conduct a preliminary investigation under
24 this chapter.

25 SUBCHAPTER B

26 GENERAL PROVISIONS

27 Sec.

28 9511. Organization of panel.

29 9512. ~~Preliminary investigation~~ INVESTIGATION OF THE ATTORNEY <--

30 GENERAL.

1 9513. Conduct of preliminary investigation.

2 9514. Determination that further investigation not warranted.

3 9515. Determination that further investigation is warranted.

4 9516. Contents of application.

5 9517. Disclosure of information.

6 9518. Limitation on judicial review.

7 9519. Duties of panel.

8 § 9511. Organization of panel.

9 (a) Composition and selection.--The Special Independent
10 Prosecutor's Panel shall be composed of one judge of the
11 Commonwealth Court and two judges, including senior judges, of
12 the courts of common pleas of the Commonwealth. The members of
13 the panel shall be chosen by lot. The procedure shall be
14 determined by and supervised by the Court Administrator of
15 Pennsylvania in the Administrative Office of Pennsylvania
16 Courts. The Administrative Office of Pennsylvania Courts shall
17 disclose to the public the membership of the panel.

18 (b) Term of members.--Each member of the panel shall hold
19 office for a term of three years. Judges who are members of the
20 panel and are required to retire under section 16 of Article V
21 of the Constitution of Pennsylvania shall also vacate their
22 positions on the panel unless assigned under Chapter 7 of the
23 Rules of Judicial Administration. A judge who is otherwise
24 removed or suspended from office shall automatically forfeit the
25 position held by that judge on the panel.

26 (c) Vacancies.--Any vacancy in the panel shall be filled
27 only for the remainder of the three-year period in which the
28 vacancy occurs and in the same manner as initial assignments to
29 the panel were made.

30 (d) Decisions by majority vote.--All decisions of the panel

1 shall be by majority vote of the members.

2 (e) Clerk.--The Prothonotary of Commonwealth Court shall
3 serve as the clerk of the panel and shall provide such services
4 as are needed by the panel.

5 (f) Restriction.--No member of the panel who participated in
6 a function conferred on the panel under this chapter involving
7 an independent counsel shall be eligible to participate in any
8 judicial proceeding concerning a matter which involves the
9 independent counsel and which involves the exercise of the
10 independent counsel's official duties, regardless of whether the
11 independent counsel is still serving in that office.

12 § 9512. ~~Preliminary investigation~~ INVESTIGATION OF THE ATTORNEY <--

13 GENERAL.

14 ~~(a) Preliminary investigation with respect to certain~~ <--
15 ~~covered persons.~~ The (A) REFERRAL TO DISTRICT ATTORNEY.--IF A <--
16 DISTRICT ATTORNEY HAS OR RECEIVES INFORMATION THAT THE ATTORNEY
17 GENERAL, EITHER ALONE OR IN CONCERT WITH OTHERS, MAY HAVE
18 COMMITTED AN OFFENSE OTHER THAN A SUMMARY OFFENSE, BUT LACKS
19 SUFFICIENT RESOURCES TO CONDUCT AN ADEQUATE INVESTIGATION OR
20 DETERMINES THAT THERE IS A POTENTIAL FOR AN ACTUAL OR APPARENT
21 CONFLICT OF INTEREST BY THE DISTRICT ATTORNEY OR THE DISTRICT
22 ATTORNEY'S OFFICE PROCEEDING WITH AN INVESTIGATION OR
23 PROSECUTION, THE DISTRICT ATTORNEY SHALL REFER THE MATTER TO ANY
24 OTHER DISTRICT ATTORNEY WHO MAY HAVE JURISDICTION OVER THE
25 MATTER.

26 (B) REFERRAL TO GENERAL COUNSEL.--IF ALL OTHER DISTRICT
27 ATTORNEYS HAVING POSSIBLE JURISDICTION DECLINE TO ACCEPT
28 JURISDICTION OVER THE MATTER DUE TO A POTENTIAL CONFLICT OF
29 INTEREST OR A LACK OF RESOURCES TO ADEQUATELY INVESTIGATE THE
30 CASE, THE DISTRICT ATTORNEY MAY REFER THE MATTER TO THE GENERAL

1 COUNSEL WHO SHALL PROCEED AS PROVIDED IN THIS CHAPTER.

2 (C) PRELIMINARY INVESTIGATION.--IF THE GENERAL COUNSEL
3 RECEIVES A REFERRAL FROM A DISTRICT ATTORNEY AS PROVIDED IN
4 SUBSECTION (B), THE General Counsel shall appoint a special
5 investigative counsel to conduct a preliminary investigation in
6 accordance with this chapter. whenever the General Counsel <--
7 receives information sufficient to constitute grounds to
8 investigate whether any person described in subsection (c) may
9 have committed any of the following:

10 (1) An offense which is classified higher than a
11 misdemeanor of the second degree.

12 (2) An offense which is classified higher than a summary
13 offense and which involves a breach of the public trust. This
14 paragraph includes a violation of the act of June 3, 1937
15 (P.L.1333, No.320), known as the Pennsylvania Election Code,
16 or the act of October 4, 1978 (P.L.883, No.170), referred to
17 as the Public Official and Employee Ethics Law.

18 (b) Preliminary investigation with respect to persons not
19 listed in subsection (c). The Attorney General shall request
20 the General Counsel to appoint a special investigative counsel
21 to conduct a preliminary investigation under the jurisdiction
22 established or conferred under section 205(b) of the act of
23 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
24 Attorneys Act, and where the Attorney General determines that an
25 investigation or prosecution of the person, with respect to the
26 information received, by the Attorney General or other officer
27 of the Attorney General's office may result in a personal,
28 financial or political conflict of interest. In addition, the
29 Attorney General may request the General Counsel to appoint a
30 special investigative counsel to conduct a preliminary

1 ~~investigation where the Attorney General determines that an~~
2 ~~investigation or prosecution of the person, with respect to the~~
3 ~~information received, by the Attorney General or other officer~~
4 ~~of the Attorney General's office may result in a personal,~~
5 ~~financial or political conflict of interest.~~

6 ~~(c) Persons to whom subsection (a) applies. The persons~~
7 ~~referred to in subsection (a) are as follows:~~

8 ~~(1) The Attorney General, any Deputy Attorney General or~~
9 ~~any individual working in the Attorney General's office who~~
10 ~~is defined as a "public employee" under the Public Official~~
11 ~~and Employee Ethics Law.~~

12 ~~(2) Any individual who leaves any office or position~~
13 ~~described in paragraph (1) during the incumbency of the~~
14 ~~Attorney General with or under whom such individual served in~~
15 ~~the office or position, plus one year after such incumbency,~~
16 ~~but in no event longer than a period of three years after the~~
17 ~~individual leaves the office or position.~~

18 ~~(3) Any individual who held an office or position~~
19 ~~described in paragraph (1) during the incumbency of one~~
20 ~~Attorney General and who continued to hold the office or~~
21 ~~position for not more than 90 days into the term of the next~~
22 ~~Attorney General, during the one year period after the~~
23 ~~individual leaves the office or position.~~

24 ~~(4) The chairman and treasurer of the principal campaign~~
25 ~~committee seeking the election or reelection of the Attorney~~
26 ~~General, and any officer of that committee exercising~~
27 ~~authority at the State level, during the incumbency of the~~
28 ~~elected Attorney General.~~

29 ~~(d) Examination of information to determine need for~~
30 ~~preliminary investigation. In determining under subsection (a)~~

~~1 whether grounds to investigate exist, the General Counsel shall
2 consider only the specificity of the information received and
3 the credibility of the source of the information. The General
4 Counsel shall determine whether grounds to investigate exist no
5 later than 30 days after the information is first received. If
6 within that 30 day period the General Counsel determines that
7 the information is not specific or is not from a credible
8 source, then the General Counsel shall close the matter. If
9 within that 30 day period the General Counsel determines that
10 the information is specific and from a credible source, the
11 General Counsel shall, upon making that determination, appoint a
12 special investigative counsel to commence a preliminary
13 investigation with respect to that information. If the General
14 Counsel is unable to determine within that 30 day period whether
15 the information is specific and from a credible source, the
16 General Counsel shall at the end of that 30 day period appoint a
17 special investigative counsel to commence a preliminary
18 investigation with respect to that information. If a special
19 investigative counsel is appointed, the special investigative
20 counsel may only accept the appointment when such appointment
21 would not conflict with the rules governing professional
22 conduct.~~

23 § 9513. Conduct of preliminary investigation.

24 (a) In general.--A preliminary investigation conducted under
25 this chapter shall be of matters as the special investigative
26 counsel considers appropriate in order to make a determination
27 under section 9514 (relating to determination that further
28 investigation not warranted) or 9515 (relating to determination
29 that further investigation is warranted) of whether further
30 investigation is warranted with respect to each potential

1 violation or allegation of a violation of criminal law. The
2 special investigative counsel shall make the determination no
3 later than 90 days after the preliminary investigation is
4 commenced. The special investigative counsel shall promptly
5 notify the panel of the date of the commencement of the
6 preliminary investigation.

7 ~~(b) Limited authority of special investigative counsel.~~ <--

8 ~~(1) In conducting preliminary investigations under this~~

9 ~~(B) LIMITED AUTHORITY OF SPECIAL INVESTIGATIVE COUNSEL.--IN~~ <--

10 CONDUCTING PRELIMINARY INVESTIGATIONS UNDER THIS chapter, the
11 special investigative counsel shall have no authority to convene
12 grand juries, plea bargain, grant immunity or issue subpoenas.

13 ~~(2) The special investigative counsel shall not base a~~ <--

14 determination under this chapter that information with

15 respect to a violation of criminal law by a person is not

16 specific and from a credible source upon a determination that

17 the person lacked the state of mind required for the

18 violation of criminal law. The special investigative counsel

19 shall not base a determination under this chapter that there

20 are no reasonable grounds to believe that further

21 investigation is warranted upon a determination that the

22 person lacked the state of mind required for the violation of

23 criminal law involved unless there is clear and convincing

24 evidence that the person lacked the required state of mind.

25 (c) Extension of time for preliminary investigation.--The

26 special investigative counsel may apply to the panel for a

27 single extension, for a period of no more than 60 days, of the

28 90-day period referred to in subsection (a). The panel may, upon

29 a showing of good cause, grant the extension.

30 § 9514. Determination that further investigation not warranted.

1 (a) Notification of panel.--If the special investigative
2 counsel upon completion of a preliminary investigation under
3 this chapter determines that there are no reasonable grounds to
4 believe that further investigation is warranted, the special
5 investigative counsel shall promptly so notify the panel, and
6 the panel shall have no power to appoint an independent counsel
7 with respect to the matters involved.

8 (b) Form of notification.--The notification shall contain a
9 summary of the information received and a summary of the results
10 of the preliminary investigation. The summary shall be
11 confidential and not subject to public disclosure, except that
12 the person who was the subject of the investigation ATTORNEY <--
13 GENERAL may request a copy of the summary from the panel.

14 § 9515. Determination that further investigation is warranted.

15 (a) Application for appointment of independent counsel.--The
16 special investigative counsel shall apply to the panel for the
17 appointment of an independent counsel if:

18 (1) the special investigative counsel, upon completion
19 of a preliminary investigation under this chapter, determines
20 that there are reasonable grounds to believe that further
21 investigation is warranted; or

22 (2) the 90-day period referred to in section 9513(a)
23 (relating to conduct of preliminary investigation) and any
24 extension granted under section 9513(c) have elapsed and the
25 special investigative counsel has not filed a notification
26 with the panel under section 9514(a) (relating to
27 determination that further investigation not warranted).

28 (b) Receipt of additional information.--If, after submitting
29 a notification under section 9514(a), the special investigative
30 counsel receives additional information sufficient to constitute

1 grounds to investigate the matters to which the notification
2 related, the special investigative counsel shall:

3 (1) Conduct an additional preliminary investigation as
4 the special investigative counsel considers appropriate for a
5 period of no more than 90 days after the date on which the
6 additional information is received.

7 (2) Otherwise comply with the provisions of this
8 subchapter with respect to the additional preliminary
9 investigation to the same extent as any other preliminary
10 investigation under this chapter.

11 § 9516. Contents of application.

12 Any application for the appointment of an independent counsel
13 under this chapter shall contain sufficient information to
14 assist the panel in selecting an independent counsel and in
15 defining that independent counsel's prosecutorial jurisdiction
16 so that the independent counsel has adequate authority to fully
17 investigate and prosecute the subject matter and all matters
18 related to that subject matter.

19 § 9517. Disclosure of information.

20 Except as otherwise provided in this chapter, no officer or
21 employee of the office of special investigative counsel or the
22 office of independent counsel may, without leave of the panel,
23 disclose to any individual outside the office of special
24 investigative counsel or office of independent counsel any
25 notification, application or any other document, material or
26 memorandum supplied to the panel under this chapter. Nothing in
27 this chapter shall be construed as authorizing the withholding
28 of information from the General Assembly IF REQUIRED OR
29 PERMITTED BY ORDER OF A COURT OF COMPETENT JURISDICTION.

<--

30 § 9518. Limitation on judicial review.

1 The determination of the special investigative counsel under
2 this chapter to apply to the panel for the appointment of an
3 independent counsel shall not be reviewable in any court.

4 § 9519. Duties of panel.

5 (a) Appointment and jurisdiction of independent counsel.--

6 (1) Upon receipt of an application, the panel shall
7 appoint an appropriate independent counsel and shall define
8 that independent counsel's prosecutorial jurisdiction. The
9 appointment shall occur no later than 30 days after the
10 receipt of the application.

11 (2) The panel shall appoint as independent counsel an <--
12 individual who has appropriate experience and who will
13 conduct the investigation and any prosecution in a prompt,
14 responsible and cost effective manner. The panel shall seek
15 to appoint as independent counsel an individual who will
16 serve to the extent necessary to complete the investigation
17 and any prosecution without undue delay. The panel may not
18 appoint as an independent counsel any person who holds any
19 office of profit or trust with the Commonwealth. No person
20 who is serving as a special investigative counsel may be
21 appointed or serve as an independent counsel in the matter
22 for which they had been appointed to investigate as special
23 investigative counsel. If an independent counsel is <--
24 appointed, the independent counsel may only accept the
25 appointment when such appointment would not conflict with the
26 rules governing professional conduct.

27 (3) In defining the independent counsel's prosecutorial
28 jurisdiction, the panel shall assure that the independent
29 counsel has adequate authority to fully investigate and
30 prosecute ALL CRIMES ARISING OUT OF the subject matter with <--

1 respect to which the special investigative counsel has
2 requested the appointment of the independent counsel. and all <--
3 matters related to that subject matter. Jurisdiction shall
4 also include the authority to investigate and prosecute the
5 following offenses which may arise out of the investigation
6 with respect to which the special investigative counsel's
7 request was made:

8 (i) An offense classified higher than a misdemeanor
9 of the second degree.

10 (ii) An offense which is classified higher than a
11 summary offense and which involves a breach of the public
12 trust. This paragraph includes a violation of the act of
13 June 3, 1937 (P.L.1333, No.320), known as the
14 Pennsylvania Election Code, or the act of October 4, 1978
15 (P.L.883, No.170), referred to as the Public Official and
16 Employee Ethics Law.

17 (4) The panel shall disclose the identity of the
18 independent counsel upon appointment.

19 (b) Expansion of jurisdiction. <--

20 (1) The panel upon the request of the General Counsel

21 (B) EXPANSION OF JURISDICTION.--THE PANEL UPON A SHOWING OF <--
22 NEED BY THE INDEPENDENT COUNSEL may expand the prosecutorial
23 jurisdiction of an independent counsel. The expansion may be in <--
24 lieu of the appointment of another independent counsel.

25 (2) If the independent counsel discovers or receives
26 information about possible violations of criminal law by
27 persons as provided in section 9512 (relating to preliminary
28 investigation) which are not covered by the prosecutorial
29 jurisdiction of the independent counsel, the independent
30 counsel may submit the information to the General Counsel. In

1 ~~accordance with this subchapter, the General Counsel shall~~
2 ~~appoint a special investigative counsel to conduct a~~
3 ~~preliminary investigation of the information, except that the~~
4 ~~preliminary investigation shall not exceed 30 days from the~~
5 ~~date the information is received. In making the~~
6 ~~determinations required by this subchapter, the special~~
7 ~~investigative counsel shall give great weight to any~~
8 ~~recommendations of the independent counsel.~~

9 ~~(3) If the special investigative counsel determines,~~
10 ~~after according great weight to the recommendations of the~~
11 ~~independent counsel, that there are no reasonable grounds to~~
12 ~~believe that further investigation is warranted, the special~~
13 ~~investigative counsel shall promptly so notify the panel, and~~
14 ~~the panel shall have no power to expand the jurisdiction of~~
15 ~~the independent counsel or to appoint another independent~~
16 ~~counsel with respect to the matters involved.~~

17 ~~(4) The panel shall expand the jurisdiction of the~~
18 ~~appropriate independent counsel to include the matters~~
19 ~~involved or shall appoint another independent counsel to~~
20 ~~investigate the matters if:~~

21 ~~(i) the special investigative counsel determines~~
22 ~~that there are reasonable grounds to believe that further~~
23 ~~investigation is warranted; or~~

24 ~~(ii) the 30 day period referred to in paragraph (2)~~
25 ~~elapses without a notification to the panel that no~~
26 ~~further investigation is warranted.~~

27 ~~(5) If the independent counsel discovers or receives~~
28 ~~information about possible violations of criminal law by~~
29 ~~persons other than those provided for in section 9512 and~~
30 ~~which are not covered by the prosecutorial jurisdiction of~~

~~the independent counsel and a request for expansion under
this subsection has not been made by the General Counsel or
the request for expansion under this subsection has been
denied by the panel, the independent counsel shall submit the
information to the appropriate law enforcement authority.~~

(c) Return for further explanation.--Upon receipt of a
notification under this subchapter FROM THE SPECIAL
INVESTIGATIVE COUNSEL that there are no reasonable grounds to
believe that further investigation is warranted with respect to
information received under this chapter, the panel shall have no
authority to overrule this determination but may return the
matter to the special investigative counsel for further
explanation of the reasons for the determination.

(d) Vacancies.--If a vacancy in office arises by reason of
the resignation, death or removal of an independent counsel, the
panel shall appoint an independent counsel to complete the work
of the independent counsel whose resignation, death or removal
caused the vacancy, except that, in the case of a vacancy
arising by reason of the removal of an independent counsel, the
panel may appoint an acting independent counsel to serve until
any judicial review of the removal is completed.

SUBCHAPTER C

AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

Sec.

9531. Authorities.

9532. Compensation and travel expenses.

9333. Additional personnel.

9534. Assistance of Pennsylvania State Police.

~~9535. Referral of other matters to independent counsel~~

(RESERVED).

<--

<--

<--

1 9536. Dismissal of matters.
2 9537. Reports by independent counsel.
3 9538. Independence from Office of Attorney General (RESERVED). <--
4 9539. Standards of conduct applicable to independent counsel,
5 persons serving in office of independent counsel and
6 their law firms.
7 9540. Custody of records of independent counsel.
8 9541. Cost controls and administrative support.
9 9542. Legislative oversight.
10 9543. Removal of independent counsel and termination of office.
11 9544. Audits.
12 9545. Relationship with Office of Attorney General. <--
13 9546. Venue. SUSPENSION OF INVESTIGATIONS. <--
14 § 9531. Authorities.
15 (A) GENERAL.--Notwithstanding any other provision of law, an <--
16 independent counsel appointed under this chapter shall SERVE AS <--
17 ATTORNEY FOR THE COMMONWEALTH AND have, with respect to all
18 matters in the independent counsel's prosecutorial jurisdiction
19 established under this chapter, full power and independent
20 authority to exercise all investigative and prosecutorial
21 functions and powers of the Office of Attorney General, the <--
22 Attorney General and any other officer or employee of the Office
23 of Attorney General A DISTRICT ATTORNEY. Investigative and <--
24 prosecutorial functions and powers shall include, but are not
25 limited to:
26 ~~(1) Conducting proceedings before grand juries and other~~ <--
27 investigations. (1) CONVENING AND UTILIZING A GRAND JURY IN <--
28 ACCORDANCE WITH 42 PA.C.S. CH. 45 SUBCH. D (RELATING TO
29 INVESTIGATING GRAND JURIES).
30 (2) Participating in court proceedings and engaging in

1 any litigation, including civil and criminal matters, that
2 the independent counsel considers necessary.

3 (3) Appealing any decision of a court in any case or
4 proceeding in which the independent counsel participates in
5 an official capacity.

6 (4) Reviewing all documentary evidence available from
7 any source.

8 (5) Determining whether to contest the assertion of any
9 testimonial privilege.

10 (6) Receiving appropriate security clearances and, if
11 necessary, contesting in court, including, where appropriate,
12 participating in an in camera proceeding, any claim of
13 privilege or attempt to withhold evidence on grounds of
14 security.

15 (7) Making applications to ~~any State court~~ THE <--
16 SUPERVISING JUDGE OF A GRAND JURY OR OTHER COURT OF COMPETENT
17 JURISDICTION for a grant of immunity to any witness,
18 consistent with applicable statutory requirements, or for
19 warrants, subpoenas or other court orders and exercising the
20 authority vested in the Attorney General or a district
21 attorney.

22 (8) Inspecting, obtaining or using the original or a
23 copy of any tax return in accordance with applicable statutes
24 and regulations.

25 (9) Initiating and conducting prosecutions in any court
26 of competent jurisdiction, framing and signing indictments,
27 filing information and handling all aspects of any case in
28 the name of the Commonwealth.

29 (10) Consulting with the district attorney for the
30 county in which any violation of law with respect to which

1 the independent counsel is appointed was alleged to have
2 occurred.

3 (B) SUBMITTAL.--IF THE INDEPENDENT COUNSEL DISCOVERS OR <--
4 RECEIVES INFORMATION ABOUT POSSIBLE VIOLATIONS OF CRIMINAL LAW
5 BY AN INDIVIDUAL OTHER THAN THE ATTORNEY GENERAL AND THE
6 VIOLATIONS DO NOT INVOLVE PARTICIPATION BY THE ATTORNEY GENERAL,
7 THE INDEPENDENT COUNSEL MAY SUBMIT THE INFORMATION TO THE
8 APPROPRIATE DISTRICT ATTORNEY OR OTHER LAW ENFORCEMENT
9 AUTHORITY.

10 § 9532. Compensation and travel expenses.

11 An independent counsel appointed under this chapter shall
12 receive compensation at the per diem rate equal to the annual
13 rate of basic pay payable to the Attorney General. An
14 independent counsel and persons appointed under section 9533
15 (relating to additional personnel) shall be entitled to the
16 payment of travel expenses.

17 § 9533. Additional personnel.

18 For the purposes of carrying out the duties of the office of
19 independent counsel, the independent counsel may appoint, fix
20 the compensation and assign the duties of the employees the
21 independent counsel considers necessary, including, but not
22 limited to, investigators, attorneys and necessary experts to
23 assist with the criminal investigation. The positions of these
24 employees are exempted from the competitive service. Employees
25 shall be compensated at levels not to exceed those payable for
26 comparable positions in the Office of Attorney General.

27 § 9534. Assistance of Pennsylvania State Police.

28 (a) Carrying out functions.--An independent counsel may
29 request assistance from the Pennsylvania State Police in
30 carrying out the functions of the independent counsel, and the

1 Pennsylvania State Police shall provide that assistance, which
2 may include the use of the resources and personnel necessary to
3 perform the independent counsel's duties.

4 (b) Payment of and reports on expenditures of independent

5 counsel.--Upon the request of the Governor, the THE General <--

6 Assembly shall appropriate the necessary funds to the State

7 Treasurer for the use and operation in executing the duties and

8 responsibilities of the position of independent counsel. Upon <--

9 the request of the Governor, the THE General Assembly shall <--

10 appropriate the necessary funds to the Pennsylvania State Police

11 for costs incurred when rendering assistance to the independent

12 counsel as provided for under subsection (a). The State

13 Treasurer shall submit to the General Assembly, no later than 30

14 days after the end of each fiscal year, a report on amounts paid

15 during that fiscal year for expenses of investigations and

16 prosecutions by independent counsel. Each report shall include a

17 statement of all payments made for activities of independent

18 counsel.

19 § 9535. Referral of other matters to independent counsel. <--

20 An independent counsel may ask the panel to refer to the

21 independent counsel matters related to the independent counsel's

22 prosecutorial jurisdiction, and the panel may refer these

23 matters. If the Attorney General refers a matter to an

24 independent counsel on the Attorney General's own initiative,

25 the independent counsel may accept the referral if the matter

26 relates to the independent counsel's prosecutorial jurisdiction.

27 (RESERVED). <--

28 § 9536. Dismissal of matters.

29 The independent counsel shall have full authority to dismiss

30 matters within the independent counsel's prosecutorial

1 jurisdiction without conducting an investigation or at any
2 subsequent time before prosecution.

<--

3 § 9537. Reports by independent counsel.

4 (a) Required reports.--An independent counsel shall:

5 (1) File with the panel, with respect to the six-month
6 period beginning on the date of his appointment and with
7 respect to each six-month period thereafter until the office
8 of that independent counsel terminates, a report which
9 identifies and explains major expenses, summarizes all other
10 expenses incurred by that office during the six-month period
11 with respect to which the report is filed and estimates
12 future expenses of that office.

13 (2) Before the termination of the independent counsel's
14 office under section 9543(b) (relating to removal of
15 independent counsel and termination of office), file a final
16 report with the panel, setting forth fully and completely a
17 description of all prosecutions. All other information shall
18 be confidential and not subject to public disclosure.

19 (b) Disclosure of information in reports.--The panel may
20 release to the General Assembly, the Governor, the State
21 Treasurer, the public or any appropriate person the portions of
22 a report made under this section as the panel considers
23 appropriate. The panel shall make any orders as are appropriate
24 to protect the rights of any individual named in the report and
25 to prevent undue interference with any pending prosecution. The
26 panel may make any portion of a final report filed under
27 subsection (a)(2) available to any individual named in the
28 report for the purposes of receiving within a time limit set by
29 the panel any comments or factual information that the
30 individual may submit. The comments and factual information, in

1 whole or in part, may in the discretion of the panel be included
2 as an appendix to the final report.

3 § 9538. Independence from Office of Attorney General. <--

4 Each independent counsel appointed under this chapter and the
5 persons appointed by that independent counsel under section 9533
6 (relating to additional personnel) are separate from and
7 independent of the Office of Attorney General. (RESERVED). <--

8 § 9539. Standards of conduct applicable to independent counsel,
9 persons serving in office of independent counsel and
10 their law firms.

11 (a) Restrictions on employment while independent counsel and
12 appointees are serving.--During the period in which an
13 independent counsel is serving under this chapter, the
14 independent counsel and any person associated with a firm with
15 which the independent counsel is associated may not represent in
16 any matter any person involved in WHO IS OR WAS THE SUBJECT OF <--
17 any investigation or prosecution under this chapter. During the
18 period in which any person appointed by an independent counsel
19 under section 9533 (relating to additional personnel) is serving
20 in the office of independent counsel, the person may not
21 represent in any matter any person involved in any investigation
22 or prosecution under this chapter.

23 (b) Postemployment restrictions on independent counsel and
24 appointees.--

25 (1) Each independent counsel and each person appointed
26 by that independent counsel under section 9533 may not for
27 three years following the termination of service under this
28 chapter of that independent counsel or appointed person, as
29 the case may be, represent any person in any matter if that
30 individual was the subject of an investigation or prosecution

1 conducted by that independent counsel under this chapter.

2 (2) Each independent counsel and each person appointed
3 by that independent counsel under section 9533 may not for
4 one year following the termination of service under this
5 chapter of that independent counsel or appointed person, as
6 the case may be, represent any person in any matter involving
7 any investigation or prosecution under this chapter.

8 (c) One-year ban on representation by members of firms of
9 independent counsel.--Any person who is associated with a firm
10 with which an independent counsel is associated or becomes
11 associated after termination of service of that independent
12 counsel under this chapter may not for one year following the
13 termination represent any person in any matter involving any
14 investigation or prosecution under this chapter.

15 (d) Definitions.--As used in this section, the following
16 words and phrases shall have the meanings given to them in this
17 subsection:

18 "Associated with a firm." A person who is an officer,
19 director, partner or other member or employee of a law firm.

20 "Firm." A law firm, whether organized as a partnership or
21 corporation.

22 § 9540. Custody of records of independent counsel.

23 (a) Transfer of records.--Upon termination of the office of
24 independent counsel, that independent counsel shall transfer to
25 ~~the Bureau of Archives and History of the Pennsylvania~~ <--
26 ~~Historical and Museum Commission~~ THE GENERAL COUNSEL all records <--
27 which have been created or received by that office. Before this
28 transfer, the independent counsel shall clearly identify which
29 of these records are subject to the Pennsylvania Rules of
30 Criminal Procedure as grand jury materials. ALL RECORDS SHALL <--

1 REMAIN UNDER SEAL UNLESS RELEASE HAS BEEN ORDERED OR APPROVED BY
2 A COURT OF COMPETENT JURISDICTION OR UNTIL THEY ARE REQUIRED OR
3 PERMITTED BY LAW TO BE TRANSFERRED TO THE BUREAU OF ARCHIVES AND
4 HISTORY OF THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION.

5 (b) Maintenance, use and disposal of records.--Records
6 transferred to the Bureau of Archives and History under this
7 section shall be maintained, used and disposed of as provided by
8 law.

9 § 9541. Cost controls and administrative support.

10 (a) Cost controls.--An independent counsel shall:

11 (1) Conduct all activities with due regard for expense.

12 (2) Authorize only reasonable and lawful expenditures.

13 (3) Promptly upon taking office assign to a specific
14 employee the duty of certifying that expenditures of the
15 independent counsel are reasonable and made in accordance
16 with law.

17 (b) Office of Administration policies.--An independent
18 counsel shall comply with the established policies of the Office
19 of Administration of the Governor respecting expenditures of
20 funds, except to the extent that compliance would be
21 inconsistent with the purposes of this chapter.

22 § 9542. Legislative oversight.

23 (a) Oversight of conduct of independent counsel.--An
24 independent counsel appointed under this chapter shall submit to
25 the General Assembly a report detailing all moneys expended as
26 required under section 9537(a)(1) (relating to reports by
27 independent counsel). In addition, the independent counsel shall
28 submit annually a report on the activities of the independent
29 counsel, including a description of the progress of any
30 investigation or prosecution conducted by the independent

1 counsel. The report may omit any matter that in the judgment of
2 the independent counsel should be kept confidential but shall
3 provide information adequate to justify the expenditures that
4 the office of the independent counsel has made.

5 (b) Information relating to impeachment.--An independent
6 counsel shall advise the House of Representatives of any
7 substantial and credible information which the independent
8 counsel receives in carrying out the independent counsel's
9 responsibilities under this chapter that may constitute grounds
10 for an impeachment. Nothing in this chapter shall prevent the
11 General Assembly or either house thereof from obtaining
12 information in the course of an impeachment proceeding.

13 § 9543. Removal of independent counsel and termination of
14 office.

15 (a) Removal, report on removal and termination.--

16 (1) An independent counsel appointed under this chapter
17 may be removed from office ~~only by the personal action of the~~<--
18 ~~General Counsel and only for good cause, physical disability,~~
19 ~~mental incapacity or any other condition that substantially~~
20 ~~impairs the performance of the independent counsel's duties.~~
21 ~~For purposes of this paragraph, the term "good cause"~~
22 ~~includes, but is not limited to, violations of any ethical~~
23 ~~rules governing the independent counsel, the Attorney General~~
24 ~~or district attorneys. BY THE PANEL IF, IN THE JUDGMENT OF A <--~~
25 ~~MAJORITY OF THE PANEL, THE INDEPENDENT COUNSEL IS UNWILLING~~
26 ~~OR UNABLE TO PERFORM THE DUTIES OF THE OFFICE IN A TIMELY AND~~
27 ~~COST-EFFECTIVE MANNER.~~

28 (2) If an independent counsel is removed from office,
29 ~~the General Counsel PANEL shall promptly submit to the panel,<--~~
30 ~~NOTIFY the Judiciary Committee of the Senate and the <--~~

1 ~~Judiciary Committee of the House of Representatives a report <--~~
2 ~~specifying the facts found and the ultimate grounds for the~~
3 ~~removal. The committees may make available to the public the~~
4 ~~report, except that each committee may, if necessary to~~
5 ~~protect the rights of any individual named in the report or~~
6 ~~to prevent undue interference with any pending prosecution,~~
7 ~~postpone or refrain from publishing any or all of the report.~~
8 ~~The panel may release any or all of the report in accordance~~
9 ~~with section 9537(b) (relating to reports by independent~~
10 ~~counsel).~~

11 ~~(3) An independent counsel removed from office may~~
12 ~~obtain judicial review of the removal in a civil action~~
13 ~~commenced in the Commonwealth Court. The independent counsel~~
14 ~~may be reinstated or granted other appropriate relief by~~
15 ~~order of the Commonwealth Court. A member of the panel may~~
16 ~~not hear or determine any such civil action or any appeal of~~
17 ~~a decision in any such civil action. AND APPOINT A NEW <--~~
18 ~~QUALIFIED INDEPENDENT COUNSEL.~~

19 ~~(b) Termination of office.--~~

20 ~~(1) An office of independent counsel shall terminate~~
21 ~~when the independent counsel:~~

22 ~~(i) notifies the panel that the investigation of all~~
23 ~~matters within the prosecutorial jurisdiction of the~~
24 ~~independent counsel or accepted by the independent~~
25 ~~counsel, and any resulting prosecutions AND APPEALS, have <--~~
26 ~~been completed; and~~

27 ~~(ii) files a final report in compliance with section~~
28 ~~9537.~~

29 ~~(2) The panel shall determine on its own motion whether <--~~
30 ~~termination is appropriate under this subsection no later~~

1 ~~than two years after the appointment of an independent~~
2 ~~counsel or the reported expenditures of the independent~~
3 ~~counsel have reached \$2,000,000, whichever occurs first, and~~
4 ~~at the end of each succeeding one year period.~~ MAY TERMINATE <--
5 THE OFFICE ON ITS OWN MOTION IF, IN ITS JUDGMENT, THE PURPOSE
6 FOR WHICH THE INDEPENDENT COUNSEL WAS APPOINTED NO LONGER
7 EXISTS OR THAT CONTINUATION OF THE OFFICE IS NO LONGER
8 NECESSARY.

9 § 9544. Audits.

10 By December 31 of each year, an independent counsel shall
11 prepare a statement of expenditures for the fiscal year that
12 ended on the immediately preceding June 30. An independent
13 counsel whose office is terminated prior to the end of the
14 fiscal year shall prepare a statement of expenditures within 90
15 days of the date on which the office is terminated. The Auditor
16 General shall audit each statement and report the results of
17 each audit to the appropriate committees of the General Assembly
18 no later than March 31 of the year following the submission of
19 the statement.

20 ~~§ 9545. Relationship with Office of Attorney General~~ SUSPENSION <--
21 OF INVESTIGATIONS.

22 Whenever a matter is in the prosecutorial jurisdiction of an
23 independent counsel or has been accepted by an independent <--
24 counsel under section 9535 (relating to referral of other
25 matters to independent counsel), the Office of Attorney General,
26 the Attorney General, all other officers and employees of the
27 Office of Attorney General and, AS APPROVED BY THIS CHAPTER, WHO <--
28 THEREAFTER BEGINS AN INVESTIGATION INTO THE SAME MATTER, any
29 district attorney shall suspend all investigations and
30 proceedings regarding that matter and shall turn over to the

1 independent counsel all materials, files and other data relating
2 to that matter.

3 § 9546. Venue.

<--

4 The proper venue for all prosecutions conducted by the
5 independent counsel shall be determined in accordance with the
6 Pennsylvania Rules of Criminal Procedure. For the purposes of
7 convenience and fairness, the panel may, however, set the venue
8 in any other county on its own motion or at the request of the
9 independent counsel or on petition of the defendant.

10 SUBCHAPTER D

11 MISCELLANEOUS PROVISIONS

12 Sec.

13 9551. Severability of chapter.

14 9552. Expiration of chapter.

15 § 9551. Severability of chapter.

16 The provisions of this chapter are severable. If any
17 provision of this chapter or its application to any person or
18 circumstance is held invalid, the invalidity shall not affect
19 other provisions or applications of this chapter which can be
20 given effect without the invalid provision or application.

21 § 9552. Expiration of chapter.

22 This chapter shall expire five years from the effective date
23 of this section, except with respect to any matters pending
24 before an independent counsel that in the judgment of the
25 independent counsel require continuation. Matters shall be
26 continued until the independent counsel determines the matters
27 are completed.

28 SECTION 3. SECTION 205(A)(3) OF THE ACT OF OCTOBER 15, 1980 <--
29 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, IS
30 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO

1 READ:

2 SECTION 205. CRIMINAL PROSECUTIONS.

3 (A) PROSECUTIONS.--THE ATTORNEY GENERAL SHALL HAVE THE POWER
4 TO PROSECUTE IN ANY COUNTY CRIMINAL COURT THE FOLLOWING CASES:

5 * * *

6 (3) UPON THE REQUEST OF A DISTRICT ATTORNEY WHO LACKS
7 THE RESOURCES TO CONDUCT AN ADEQUATE INVESTIGATION OR THE
8 PROSECUTION OF THE CRIMINAL CASE OR MATTER OR WHO REPRESENTS
9 THAT THERE IS THE POTENTIAL FOR AN ACTUAL OR APPARENT
10 CONFLICT OF INTEREST ON THE PART OF THE DISTRICT ATTORNEY OR
11 HIS OFFICE[.] IN ACCORDANCE WITH THE FOLLOWING:

12 (I) IF THE ATTORNEY GENERAL DECLINES TO ACCEPT OR
13 ACT ON THE REQUEST, THE DISTRICT ATTORNEY MAY REFER THE
14 MATTER TO ANY DISTRICT ATTORNEY OF A CONTIGUOUS COUNTY
15 WHO HAS SUFFICIENT RESOURCES AND HAS NO CONFLICT OF
16 INTEREST IN REPRESENTING THE COMMONWEALTH.

17 (II) IF EACH OF THE DISTRICT ATTORNEYS OF THE
18 CONTIGUOUS COUNTIES DECLINES TO ACCEPT THE REFERRAL FOR
19 ANY REASON, THE REFERRING DISTRICT ATTORNEY MAY REFER THE
20 MATTER TO A DISTRICT ATTORNEY OF A NONCONTIGUOUS COUNTY.

21 (III) A DISTRICT ATTORNEY WHO HAS ACCEPTED A CASE
22 UNDER SUBPARAGRAPH (I) OR (II) AND A DEPUTY OR ASSISTANT
23 DISTRICT ATTORNEY ON THE DISTRICT ATTORNEY'S STAFF SHALL
24 HAVE THE SAME AUTHORITY TO INVESTIGATE AND PROSECUTE AS
25 THE DISTRICT ATTORNEY WHO REFERRED THE MATTER.

26 * * *

27 (B.1) PROCEDURE FOR POTENTIAL CONFLICT OF INTEREST.--A CASE
28 WHICH CREATES A POTENTIAL CONFLICT OF INTEREST SHALL BE
29 INVESTIGATED IN ACCORDANCE WITH THE FOLLOWING:

30 (1) IF THE ATTORNEY GENERAL DETERMINES THAT THE

1 INVESTIGATION OR PROSECUTION OF ANY MATTER WITHIN THE
2 ATTORNEY GENERAL'S JURISDICTION WOULD CREATE A POTENTIAL FOR
3 CONFLICT OF INTEREST FOR THE ATTORNEY GENERAL OR THE OFFICE
4 OF ATTORNEY GENERAL, THE ATTORNEY GENERAL SHALL REFER THE
5 MATTER TO A DISTRICT ATTORNEY HAVING APPROPRIATE JURISDICTION
6 AND VENUE TO INVESTIGATE AND PROSECUTE.

7 (2) IF THE DISTRICT ATTORNEY TO WHOM THE INVESTIGATION
8 OR PROSECUTION WAS REFERRED LACKS SUFFICIENT RESOURCES OR
9 DETERMINES THAT THE MATTER CREATES A POTENTIAL CONFLICT OF
10 INTEREST FOR THE DISTRICT ATTORNEY OR THE DISTRICT ATTORNEY'S
11 OFFICE, THE DISTRICT ATTORNEY SHALL REFER THE MATTER TO A
12 DISTRICT ATTORNEY OF A CONTIGUOUS COUNTY. IF THE DISTRICT
13 ATTORNEYS OF ALL CONTIGUOUS COUNTIES DECLINE TO ACCEPT THE
14 REFERRAL FOR ANY REASON, THE REFERRING DISTRICT ATTORNEY MAY
15 REFER THE MATTER TO A DISTRICT ATTORNEY OF A NONCONTIGUOUS
16 COUNTY.

17 (3) A DISTRICT ATTORNEY WHO HAS ACCEPTED A CASE UNDER
18 PARAGRAPH (1) OR (2) AND A DEPUTY OR ASSISTANT DISTRICT
19 ATTORNEY ON THE DISTRICT ATTORNEY'S STAFF SHALL HAVE THE SAME
20 AUTHORITY TO INVESTIGATE AND PROSECUTE AS THE DISTRICT
21 ATTORNEY WHO REFERRED THE MATTER.

22 * * *

23 SECTION 4. THE COMMONWEALTH ATTORNEYS ACT IS AMENDED BY
24 ADDING A SECTION TO READ:

25 SECTION 301.1. INVESTIGATIONS INVOLVING THE ATTORNEY GENERAL.

26 IF THE GENERAL COUNSEL RECEIVES INFORMATION SUFFICIENT TO
27 WARRANT FURTHER INVESTIGATION THAT THE ATTORNEY GENERAL, EITHER
28 SINGULARLY OR IN CONCERT WITH OTHERS, MAY HAVE COMMITTED AN
29 OFFENSE OTHER THAN A SUMMARY OFFENSE, THE GENERAL COUNSEL SHALL
30 NOTIFY A DISTRICT ATTORNEY WHO APPEARS TO HAVE JURISDICTION OVER

1 THE MATTER BASED ON THE INFORMATION AVAILABLE TO THE GENERAL
2 COUNSEL AT THE TIME OF THE NOTIFICATION.

3 Section 3 5. This act shall take effect in 60 days.

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