
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 AND HEFFLEY, MAY 6, 2015

REFERRED TO COMMITTEE ON JUDICIARY, MAY 6, 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.

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

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7 Consolidated Statutes is repealed:

8 [§ 9301. Short title of chapter.

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

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

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

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

18 "Independent counsel." A person appointed by the Special

1 Independent Prosecutor's Panel upon the request of a special
2 investigative counsel.

3 "Panel." The Special Independent Prosecutor's Panel
4 established under this chapter.

5 "Special investigative counsel." A person appointed by the
6 General Counsel to conduct a preliminary investigation under
7 this chapter.

8 § 9311. 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 § 9312. Preliminary investigation.

13 (a) Preliminary investigation with respect to certain
14 covered persons.--The General Counsel shall appoint a special
15 investigative counsel to conduct a preliminary investigation in
16 accordance with this chapter whenever the General Counsel
17 receives information sufficient to constitute grounds to
18 investigate whether any person described in subsection (c) may
19 have committed any of the following:

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

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

28 (b) Preliminary investigation with respect to persons not
29 listed in subsection (c).--The Attorney General shall request
30 the General Counsel to appoint a special investigative counsel

1 to conduct a preliminary investigation under the jurisdiction
2 established or conferred under section 205(b) of the act of
3 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
4 Attorneys Act, and where the Attorney General determines that an
5 investigation or prosecution of the person, with respect to the
6 information received, by the Attorney General or other officer
7 of the Attorney General's office may result in a personal,
8 financial or political conflict of interest. In addition, the
9 Attorney General may request the General Counsel to appoint a
10 special investigative counsel to conduct a preliminary
11 investigation where the Attorney General determines that an
12 investigation or prosecution of the person, with respect to the
13 information received, by the Attorney General or other officer
14 of the Attorney General's office may result in a personal,
15 financial or political conflict of interest.

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

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

22 (2) Any individual who leaves any office or position
23 described in paragraph (1) during the incumbency of the
24 Attorney General with or under whom such individual served in
25 the office or position, plus one year after such incumbency,
26 but in no event longer than a period of three years after the
27 individual leaves the office or position.

28 (3) Any individual who held an office or position
29 described in paragraph (1) during the incumbency of one
30 Attorney General and who continued to hold the office or

1 position for not more than 90 days into the term of the next
2 Attorney General, during the one-year period after the
3 individual leaves the office or position.

4 (4) The chairman and treasurer of the principal campaign
5 committee seeking the election or reelection of the Attorney
6 General, and any officer of that committee exercising
7 authority at the State level, during the incumbency of the
8 elected Attorney General.

9 (d) Examination of information to determine need for
10 preliminary investigation.--In determining under subsection (a)
11 whether grounds to investigate exist, the General Counsel shall
12 consider only the specificity of the information received and
13 the credibility of the source of the information. The General
14 Counsel shall determine whether grounds to investigate exist no
15 later than 30 days after the information is first received. If
16 within that 30-day period the General Counsel determines that
17 the information is not specific or is not from a credible
18 source, then the General Counsel shall close the matter. If
19 within that 30-day period the General Counsel determines that
20 the information is specific and from a credible source, the
21 General Counsel shall, upon making that determination, appoint a
22 special investigative counsel to commence a preliminary
23 investigation with respect to that information. If the General
24 Counsel is unable to determine within that 30-day period whether
25 the information is specific and from a credible source, the
26 General Counsel shall at the end of that 30-day period appoint a
27 special investigative counsel to commence a preliminary
28 investigation with respect to that information. If a special
29 investigative counsel is appointed, the special investigative
30 counsel may only accept the appointment when such appointment

1 would not conflict with the rules governing professional
2 conduct.

3 § 9313. Conduct of preliminary investigation.

4 (a) In general.--A preliminary investigation conducted under
5 this chapter shall be of matters as the special investigative
6 counsel considers appropriate in order to make a determination
7 under section 9314 (relating to determination that further
8 investigation not warranted) or 9315 (relating to determination
9 that further investigation is warranted) of whether further
10 investigation is warranted with respect to each potential
11 violation or allegation of a violation of criminal law. The
12 special investigative counsel shall make the determination no
13 later than 90 days after the preliminary investigation is
14 commenced. The special investigative counsel shall promptly
15 notify the panel of the date of the commencement of the
16 preliminary investigation.

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

18 (1) In conducting preliminary investigations under this
19 chapter, the special investigative counsel shall have no
20 authority to convene grand juries, plea bargain, grant
21 immunity or issue subpoenas.

22 (2) The special investigative counsel shall not base a
23 determination under this chapter that information with
24 respect to a violation of criminal law by a person is not
25 specific and from a credible source upon a determination that
26 the person lacked the state of mind required for the
27 violation of criminal law. The special investigative counsel
28 shall not base a determination under this chapter that there
29 are no reasonable grounds to believe that further
30 investigation is warranted upon a determination that the

1 person lacked the state of mind required for the violation of
2 criminal law involved unless there is clear and convincing
3 evidence that the person lacked the required state of mind.

4 (c) Extension of time for preliminary investigation.--The
5 special investigative counsel may apply to the panel for a
6 single extension, for a period of no more than 60 days, of the
7 90-day period referred to in subsection (a). The panel may, upon
8 a showing of good cause, grant the extension.

9 § 9314. Determination that further investigation not warranted.

10 (a) Notification of panel.--If the special investigative
11 counsel upon completion of a preliminary investigation under
12 this chapter determines that there are no reasonable grounds to
13 believe that further investigation is warranted, the special
14 investigative counsel shall promptly so notify the panel, and
15 the panel shall have no power to appoint an independent counsel
16 with respect to the matters involved.

17 (b) Form of notification.--The notification shall contain a
18 summary of the information received and a summary of the results
19 of the preliminary investigation. The summary shall be
20 confidential and not subject to public disclosure, except that
21 the person who was the subject of the investigation may request
22 a copy of the summary from the panel.

23 § 9315. Determination that further investigation is warranted.

24 (a) Application for appointment of independent counsel.--The
25 special investigative counsel shall apply to the panel for the
26 appointment of an independent counsel if:

27 (1) the special investigative counsel, upon completion
28 of a preliminary investigation under this chapter, determines
29 that there are reasonable grounds to believe that further
30 investigation is warranted; or

1 (2) the 90-day period referred to in section 9313(a)
2 (relating to conduct of preliminary investigation) and any
3 extension granted under section 9313(c) have elapsed and the
4 special investigative counsel has not filed a notification
5 with the panel under section 9314(a) (relating to
6 determination that further investigation not warranted).

7 (b) Receipt of additional information.--If, after submitting
8 a notification under section 9314(a), the special investigative
9 counsel receives additional information sufficient to constitute
10 grounds to investigate the matters to which the notification
11 related, the special investigative counsel shall:

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

16 (2) Otherwise comply with the provisions of this
17 subchapter with respect to the additional preliminary
18 investigation to the same extent as any other preliminary
19 investigation under this chapter.

20 § 9316. Contents of application.

21 Any application for the appointment of an independent counsel
22 under this chapter shall contain sufficient information to
23 assist the panel in selecting an independent counsel and in
24 defining that independent counsel's prosecutorial jurisdiction
25 so that the independent counsel has adequate authority to fully
26 investigate and prosecute the subject matter and all matters
27 related to that subject matter.

28 § 9317. Disclosure of information.

29 Except as otherwise provided in this chapter, no officer or
30 employee of the office of special investigative counsel or the

1 office of independent counsel may, without leave of the panel,
2 disclose to any individual outside the office of special
3 investigative counsel or office of independent counsel any
4 notification, application or any other document, material or
5 memorandum supplied to the panel under this chapter. Nothing in
6 this chapter shall be construed as authorizing the withholding
7 of information from the General Assembly.

8 § 9318. Limitation on judicial review.

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

12 § 9319. Duties of panel.

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

14 (1) Upon receipt of an application, the panel shall
15 appoint an appropriate independent counsel and shall define
16 that independent counsel's prosecutorial jurisdiction. The
17 appointment shall occur no later than 30 days after the
18 receipt of the application.

19 (2) The panel shall appoint as independent counsel an
20 individual who has appropriate experience and who will
21 conduct the investigation and any prosecution in a prompt,
22 responsible and cost-effective manner. The panel shall seek
23 to appoint as independent counsel an individual who will
24 serve to the extent necessary to complete the investigation
25 and any prosecution without undue delay. The panel may not
26 appoint as an independent counsel any person who holds any
27 office of profit or trust with the Commonwealth. No person
28 who is serving as a special investigative counsel may be
29 appointed or serve as an independent counsel in the matter
30 for which they had been appointed to investigate as special

1 investigative counsel. If an independent counsel is
2 appointed, the independent counsel may only accept the
3 appointment when such appointment would not conflict with the
4 rules governing professional conduct.

5 (3) In defining the independent counsel's prosecutorial
6 jurisdiction, the panel shall assure that the independent
7 counsel has adequate authority to fully investigate and
8 prosecute the subject matter with respect to which the
9 special investigative counsel has requested the appointment
10 of the independent counsel and all matters related to that
11 subject matter. Jurisdiction shall also include the authority
12 to investigate and prosecute the following offenses which may
13 arise out of the investigation with respect to which the
14 special investigative counsel's request was made:

15 (i) An offense classified higher than a misdemeanor
16 of the second degree.

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

24 (4) The panel shall disclose the identity of the
25 independent counsel upon appointment.

26 (b) Expansion of jurisdiction.--

27 (1) The panel upon the request of the General Counsel
28 may expand the prosecutorial jurisdiction of an independent
29 counsel. The expansion may be in lieu of the appointment of
30 another independent counsel.

1 (2) If the independent counsel discovers or receives
2 information about possible violations of criminal law by
3 persons as provided in section 9312 (relating to preliminary
4 investigation) which are not covered by the prosecutorial
5 jurisdiction of the independent counsel, the independent
6 counsel may submit the information to the General Counsel. In
7 accordance with this subchapter, the General Counsel shall
8 appoint a special investigative counsel to conduct a
9 preliminary investigation of the information, except that the
10 preliminary investigation shall not exceed 30 days from the
11 date the information is received. In making the
12 determinations required by this subchapter, the special
13 investigative counsel shall give great weight to any
14 recommendations of the independent counsel.

15 (3) If the special investigative counsel determines,
16 after according great weight to the recommendations of the
17 independent counsel, that there are no reasonable grounds to
18 believe that further investigation is warranted, the special
19 investigative counsel shall promptly so notify the panel, and
20 the panel shall have no power to expand the jurisdiction of
21 the independent counsel or to appoint another independent
22 counsel with respect to the matters involved.

23 (4) The panel shall expand the jurisdiction of the
24 appropriate independent counsel to include the matters
25 involved or shall appoint another independent counsel to
26 investigate the matters if:

27 (i) the special investigative counsel determines
28 that there are reasonable grounds to believe that further
29 investigation is warranted; or

30 (ii) the 30-day period referred to in paragraph (2)

1 elapses without a notification to the panel that no
2 further investigation is warranted.

3 (5) If the independent counsel discovers or receives
4 information about possible violations of criminal law by
5 persons other than those provided for in section 9312 and
6 which are not covered by the prosecutorial jurisdiction of
7 the independent counsel and a request for expansion under
8 this subsection has not been made by the General Counsel or
9 the request for expansion under this subsection has been
10 denied by the panel, the independent counsel shall submit the
11 information to the appropriate law enforcement authority.

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

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

27 § 9331. Authorities.

28 Notwithstanding any other provision of law, an independent
29 counsel appointed under this chapter shall have, with respect to
30 all matters in the independent counsel's prosecutorial

1 jurisdiction established under this chapter, full power and
2 independent authority to exercise all investigative and
3 prosecutorial functions and powers of the Office of Attorney
4 General, the Attorney General and any other officer or employee
5 of the Office of Attorney General. Investigative and
6 prosecutorial functions and powers shall include, but are not
7 limited to:

8 (1) Conducting proceedings before grand juries and other
9 investigations.

10 (2) Participating in court proceedings and engaging in
11 any litigation, including civil and criminal matters, that
12 the independent counsel considers necessary.

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

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

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

20 (6) Receiving appropriate security clearances and, if
21 necessary, contesting in court, including, where appropriate,
22 participating in an in camera proceeding, any claim of
23 privilege or attempt to withhold evidence on grounds of
24 security.

25 (7) Making applications to any State court for a grant
26 of immunity to any witness, consistent with applicable
27 statutory requirements, or for warrants, subpoenas or other
28 court orders and exercising the authority vested in the
29 Attorney General or a district attorney.

30 (8) Inspecting, obtaining or using the original or a

1 copy of any tax return in accordance with applicable statutes
2 and regulations.

3 (9) Initiating and conducting prosecutions in any court
4 of competent jurisdiction, framing and signing indictments,
5 filing information and handling all aspects of any case in
6 the name of the Commonwealth.

7 (10) Consulting with the district attorney for the
8 county in which any violation of law with respect to which
9 the independent counsel is appointed was alleged to have
10 occurred.

11 § 9332. Compensation and travel expenses.

12 An independent counsel appointed under this chapter shall
13 receive compensation at the per diem rate equal to the annual
14 rate of basic pay payable to the Attorney General. An
15 independent counsel and persons appointed under section 9333
16 (relating to additional personnel) shall be entitled to the
17 payment of travel expenses.

18 § 9333. Additional personnel.

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

28 § 9334. Assistance of Pennsylvania State Police.

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

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

5 (b) Payment of and reports on expenditures of independent
6 counsel.--Upon the request of the Governor, the General Assembly
7 shall appropriate the necessary funds to the State Treasurer for
8 the use and operation in executing the duties and
9 responsibilities of the position of independent counsel. Upon
10 the request of the Governor, the General Assembly shall
11 appropriate the necessary funds to the Pennsylvania State Police
12 for costs incurred when rendering assistance to the independent
13 counsel as provided for under subsection (a). The State
14 Treasurer shall submit to the General Assembly, no later than 30
15 days after the end of each fiscal year, a report on amounts paid
16 during that fiscal year for expenses of investigations and
17 prosecutions by independent counsel. Each report shall include a
18 statement of all payments made for activities of independent
19 counsel.

20 § 9335. Referral of other matters to independent counsel.

21 An independent counsel may ask the panel to refer to the
22 independent counsel matters related to the independent counsel's
23 prosecutorial jurisdiction, and the panel may refer these
24 matters. If the Attorney General refers a matter to an
25 independent counsel on the Attorney General's own initiative,
26 the independent counsel may accept the referral if the matter
27 relates to the independent counsel's prosecutorial jurisdiction.

28 § 9336. 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 § 9337. 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 9343(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 § 9338. 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 9333
6 (relating to additional personnel) are separate from and
7 independent of the Office of Attorney General.

8 § 9339. 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 any investigation or
17 prosecution under this chapter. During the period in which any
18 person appointed by an independent counsel under section 9333
19 (relating to additional personnel) is serving in the office of
20 independent counsel, the person may not represent in any matter
21 any person involved in any investigation or prosecution under
22 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 9333 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 9333 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 § 9340. 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 all records which have been
27 created or received by that office. Before this transfer, the
28 independent counsel shall clearly identify which of these
29 records are subject to the Pennsylvania Rules of Criminal
30 Procedure as grand jury materials.

1 (b) Maintenance, use and disposal of records.--Records
2 transferred to the Bureau of Archives and History under this
3 section shall be maintained, used and disposed of as provided by
4 law.

5 § 9341. Cost controls and administrative support.

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

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

8 (2) Authorize only reasonable and lawful expenditures.

9 (3) Promptly upon taking office assign to a specific
10 employee the duty of certifying that expenditures of the
11 independent counsel are reasonable and made in accordance
12 with law.

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

18 § 9342. Legislative oversight.

19 (a) Oversight of conduct of independent counsel.--An
20 independent counsel appointed under this chapter shall submit to
21 the General Assembly a report detailing all moneys expended as
22 required under section 9337(a)(1) (relating to reports by
23 independent counsel). In addition, the independent counsel shall
24 submit annually a report on the activities of the independent
25 counsel, including a description of the progress of any
26 investigation or prosecution conducted by the independent
27 counsel. The report may omit any matter that in the judgment of
28 the independent counsel should be kept confidential but shall
29 provide information adequate to justify the expenditures that
30 the office of the independent counsel has made.

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

9 § 9343. Removal of independent counsel and termination of
10 office.

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

12 (1) An independent counsel appointed under this chapter
13 may be removed from office only by the personal action of the
14 General Counsel and only for good cause, physical disability,
15 mental incapacity or any other condition that substantially
16 impairs the performance of the independent counsel's duties.
17 For purposes of this paragraph, the term "good cause"
18 includes, but is not limited to, violations of any ethical
19 rules governing the independent counsel, the Attorney General
20 or district attorneys.

21 (2) If an independent counsel is removed from office,
22 the General Counsel shall promptly submit to the panel, the
23 Judiciary Committee of the Senate and the Judiciary Committee
24 of the House of Representatives a report specifying the facts
25 found and the ultimate grounds for the removal. The
26 committees may make available to the public the report,
27 except that each committee may, if necessary to protect the
28 rights of any individual named in the report or to prevent
29 undue interference with any pending prosecution, postpone or
30 refrain from publishing any or all of the report. The panel

1 may release any or all of the report in accordance with
2 section 9337(b) (relating to reports by independent counsel).

3 (3) An independent counsel removed from office may
4 obtain judicial review of the removal in a civil action
5 commenced in the Commonwealth Court. The independent counsel
6 may be reinstated or granted other appropriate relief by
7 order of the Commonwealth Court. A member of the panel may
8 not hear or determine any such civil action or any appeal of
9 a decision in any such civil action.

10 (b) Termination of office.--

11 (1) An office of independent counsel shall terminate
12 when the independent counsel:

13 (i) notifies the panel that the investigation of all
14 matters within the prosecutorial jurisdiction of the
15 independent counsel or accepted by the independent
16 counsel, and any resulting prosecutions, have been
17 completed; and

18 (ii) files a final report in compliance with section
19 9337.

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

26 § 9344. Audits.

27 By December 31 of each year, an independent counsel shall
28 prepare a statement of expenditures for the fiscal year that
29 ended on the immediately preceding June 30. An independent
30 counsel whose office is terminated prior to the end of the

1 fiscal year shall prepare a statement of expenditures within 90
2 days of the date on which the office is terminated. The Auditor
3 General shall audit each statement and report the results of
4 each audit to the appropriate committees of the General Assembly
5 no later than March 31 of the year following the submission of
6 the statement.

7 § 9345. Relationship with Office of Attorney General.

8 Whenever a matter is in the prosecutorial jurisdiction of an
9 independent counsel or has been accepted by an independent
10 counsel under section 9335 (relating to referral of other
11 matters to independent counsel), the Office of Attorney General,
12 the Attorney General, all other officers and employees of the
13 Office of Attorney General and any district attorney shall
14 suspend all investigations and proceedings regarding that matter
15 and shall turn over to the independent counsel all materials,
16 files and other data relating to that matter.

17 § 9346. Venue.

18 The proper venue for all prosecutions conducted by the
19 independent counsel shall be determined in accordance with the
20 Pennsylvania Rules of Criminal Procedure. For the purposes of
21 convenience and fairness, the panel may, however, set the venue
22 in any other county on its own motion or at the request of the
23 independent counsel or on petition of the defendant.

24 § 9351. Severability of chapter.

25 The provisions of this chapter are severable. If any
26 provision of this chapter or its application to any person or
27 circumstance is held invalid, the invalidity shall not affect
28 other provisions or applications of this chapter which can be
29 given effect without the invalid provision or application.

30 § 9352. Expiration of chapter.

1 This chapter shall expire five years after the date of the
2 enactment of this chapter, except with respect to any matters
3 pending before an independent counsel that in the judgment of
4 the independent counsel require continuation. Matters shall be
5 continued until the independent counsel determines the matters
6 are completed.]

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

8 CHAPTER 95

9 INDEPENDENT COUNSEL

10 Subchapter

11 A. Preliminary Provisions

12 B. General Provisions

13 C. Authority and Duties of Independent Counsel

14 D. Miscellaneous Provisions

15 SUBCHAPTER A

16 PRELIMINARY PROVISIONS

17 Sec.

18 9501. Scope of chapter.

19 9502. Definitions.

20 § 9501. Scope of chapter.

21 This chapter relates to independent counsel.

22 § 9502. Definitions.

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

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

27 "Grounds to investigate." Information which would lead a
28 reasonable person to suspect that a crime is being or has been
29 committed.

30 "Independent counsel." A person appointed by the Special

1 Independent Prosecutor's Panel upon the request of a special
2 investigative counsel.

3 "Panel." The Special Independent Prosecutor's Panel
4 established under this chapter.

5 "Special investigative counsel." A person appointed by the
6 General Counsel to conduct a preliminary investigation under
7 this chapter.

8 SUBCHAPTER B

9 GENERAL PROVISIONS

10 Sec.

11 9511. Organization of panel.

12 9512. Preliminary investigation.

13 9513. Conduct of preliminary investigation.

14 9514. Determination that further investigation not warranted.

15 9515. Determination that further investigation is warranted.

16 9516. Contents of application.

17 9517. Disclosure of information.

18 9518. Limitation on judicial review.

19 9519. Duties of panel.

20 § 9511. Organization of panel.

21 (a) Composition and selection.--The Special Independent
22 Prosecutor's Panel shall be composed of one judge of the
23 Commonwealth Court and two judges, including senior judges, of
24 the courts of common pleas of the Commonwealth. The members of
25 the panel shall be chosen by lot. The procedure shall be
26 determined by and supervised by the Court Administrator of
27 Pennsylvania in the Administrative Office of Pennsylvania
28 Courts. The Administrative Office of Pennsylvania Courts shall
29 disclose to the public the membership of the panel.

30 (b) Term of members.--Each member of the panel shall hold

1 office for a term of three years. Judges who are members of the
2 panel and are required to retire under section 16 of Article V
3 of the Constitution of Pennsylvania shall also vacate their
4 positions on the panel unless assigned under Chapter 7 of the
5 Rules of Judicial Administration. A judge who is otherwise
6 removed or suspended from office shall automatically forfeit the
7 position held by that judge on the panel.

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

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

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

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

24 § 9512. Preliminary investigation.

25 (a) Preliminary investigation with respect to certain
26 covered persons.--The General Counsel shall appoint a special
27 investigative counsel to conduct a preliminary investigation in
28 accordance with this chapter whenever the General Counsel
29 receives information sufficient to constitute grounds to
30 investigate whether any person described in subsection (c) may

1 have committed any of the following:

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

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

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

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

30 (1) The Attorney General, any Deputy Attorney General or

1 any individual working in the Attorney General's office who
2 is defined as a "public employee" under the Public Official
3 and Employee Ethics Law.

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

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

16 (4) The chairman and treasurer of the principal campaign
17 committee seeking the election or reelection of the Attorney
18 General, and any officer of that committee exercising
19 authority at the State level, during the incumbency of the
20 elected Attorney General.

21 (d) Examination of information to determine need for
22 preliminary investigation.--In determining under subsection (a)
23 whether grounds to investigate exist, the General Counsel shall
24 consider only the specificity of the information received and
25 the credibility of the source of the information. The General
26 Counsel shall determine whether grounds to investigate exist no
27 later than 30 days after the information is first received. If
28 within that 30-day period the General Counsel determines that
29 the information is not specific or is not from a credible
30 source, then the General Counsel shall close the matter. If

1 within that 30-day period the General Counsel determines that
2 the information is specific and from a credible source, the
3 General Counsel shall, upon making that determination, appoint a
4 special investigative counsel to commence a preliminary
5 investigation with respect to that information. If the General
6 Counsel is unable to determine within that 30-day period whether
7 the information is specific and from a credible source, the
8 General Counsel shall at the end of that 30-day period appoint a
9 special investigative counsel to commence a preliminary
10 investigation with respect to that information. If a special
11 investigative counsel is appointed, the special investigative
12 counsel may only accept the appointment when such appointment
13 would not conflict with the rules governing professional
14 conduct.

15 § 9513. Conduct of preliminary investigation.

16 (a) In general.--A preliminary investigation conducted under
17 this chapter shall be of matters as the special investigative
18 counsel considers appropriate in order to make a determination
19 under section 9514 (relating to determination that further
20 investigation not warranted) or 9515 (relating to determination
21 that further investigation is warranted) of whether further
22 investigation is warranted with respect to each potential
23 violation or allegation of a violation of criminal law. The
24 special investigative counsel shall make the determination no
25 later than 90 days after the preliminary investigation is
26 commenced. The special investigative counsel shall promptly
27 notify the panel of the date of the commencement of the
28 preliminary investigation.

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

30 (1) In conducting preliminary investigations under this

1 chapter, the special investigative counsel shall have no
2 authority to convene grand juries, plea bargain, grant
3 immunity or issue subpoenas.

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

16 (c) Extension of time for preliminary investigation.--The
17 special investigative counsel may apply to the panel for a
18 single extension, for a period of no more than 60 days, of the
19 90-day period referred to in subsection (a). The panel may, upon
20 a showing of good cause, grant the extension.

21 § 9514. Determination that further investigation not warranted.

22 (a) Notification of panel.--If the special investigative
23 counsel upon completion of a preliminary investigation under
24 this chapter determines that there are no reasonable grounds to
25 believe that further investigation is warranted, the special
26 investigative counsel shall promptly so notify the panel, and
27 the panel shall have no power to appoint an independent counsel
28 with respect to the matters involved.

29 (b) Form of notification.--The notification shall contain a
30 summary of the information received and a summary of the results

1 of the preliminary investigation. The summary shall be
2 confidential and not subject to public disclosure, except that
3 the person who was the subject of the investigation may request
4 a copy of the summary from the panel.

5 § 9515. Determination that further investigation is warranted.

6 (a) Application for appointment of independent counsel.--The
7 special investigative counsel shall apply to the panel for the
8 appointment of an independent counsel if:

9 (1) the special investigative counsel, upon completion
10 of a preliminary investigation under this chapter, determines
11 that there are reasonable grounds to believe that further
12 investigation is warranted; or

13 (2) the 90-day period referred to in section 9513(a)
14 (relating to conduct of preliminary investigation) and any
15 extension granted under section 9513(c) have elapsed and the
16 special investigative counsel has not filed a notification
17 with the panel under section 9514(a) (relating to
18 determination that further investigation not warranted).

19 (b) Receipt of additional information.--If, after submitting
20 a notification under section 9514(a), the special investigative
21 counsel receives additional information sufficient to constitute
22 grounds to investigate the matters to which the notification
23 related, the special investigative counsel shall:

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

28 (2) Otherwise comply with the provisions of this
29 subchapter with respect to the additional preliminary
30 investigation to the same extent as any other preliminary

1 investigation under this chapter.

2 § 9516. Contents of application.

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

10 § 9517. Disclosure of information.

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

20 § 9518. Limitation on judicial review.

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

24 § 9519. Duties of panel.

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

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

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

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

27 (i) An offense classified higher than a misdemeanor
28 of the second degree.

29 (ii) An offense which is classified higher than a
30 summary offense and which involves a breach of the public

1 trust. This paragraph includes a violation of the act of
2 June 3, 1937 (P.L.1333, No.320), known as the
3 Pennsylvania Election Code, or the act of October 4, 1978
4 (P.L.883, No.170), referred to as the Public Official and
5 Employee Ethics Law.

6 (4) The panel shall disclose the identity of the
7 independent counsel upon appointment.

8 (b) Expansion of jurisdiction.--

9 (1) The panel upon the request of the General Counsel
10 may expand the prosecutorial jurisdiction of an independent
11 counsel. The expansion may be in lieu of the appointment of
12 another independent counsel.

13 (2) If the independent counsel discovers or receives
14 information about possible violations of criminal law by
15 persons as provided in section 9512 (relating to preliminary
16 investigation) which are not covered by the prosecutorial
17 jurisdiction of the independent counsel, the independent
18 counsel may submit the information to the General Counsel. In
19 accordance with this subchapter, the General Counsel shall
20 appoint a special investigative counsel to conduct a
21 preliminary investigation of the information, except that the
22 preliminary investigation shall not exceed 30 days from the
23 date the information is received. In making the
24 determinations required by this subchapter, the special
25 investigative counsel shall give great weight to any
26 recommendations of the independent counsel.

27 (3) If the special investigative counsel determines,
28 after according great weight to the recommendations of the
29 independent counsel, 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 expand the jurisdiction of
3 the independent counsel or to appoint another independent
4 counsel with respect to the matters involved.

5 (4) The panel shall expand the jurisdiction of the
6 appropriate independent counsel to include the matters
7 involved or shall appoint another independent counsel to
8 investigate the matters if:

9 (i) the special investigative counsel determines
10 that there are reasonable grounds to believe that further
11 investigation is warranted; or

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

15 (5) If the independent counsel discovers or receives
16 information about possible violations of criminal law by
17 persons other than those provided for in section 9512 and
18 which are not covered by the prosecutorial jurisdiction of
19 the independent counsel and a request for expansion under
20 this subsection has not been made by the General Counsel or
21 the request for expansion under this subsection has been
22 denied by the panel, the independent counsel shall submit the
23 information to the appropriate law enforcement authority.

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

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

9 SUBCHAPTER C

10 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

11 Sec.

12 9531. Authorities.

13 9532. Compensation and travel expenses.

14 9333. Additional personnel.

15 9534. Assistance of Pennsylvania State Police.

16 9535. Referral of other matters to independent counsel.

17 9536. Dismissal of matters.

18 9537. Reports by independent counsel.

19 9538. Independence from Office of Attorney General.

20 9539. Standards of conduct applicable to independent counsel,

21 persons serving in office of independent counsel and

22 their law firms.

23 9540. Custody of records of independent counsel.

24 9541. Cost controls and administrative support.

25 9542. Legislative oversight.

26 9543. Removal of independent counsel and termination of office.

27 9544. Audits.

28 9545. Relationship with Office of Attorney General.

29 9546. Venue.

30 § 9531. Authorities.

1 Notwithstanding any other provision of law, an independent
2 counsel appointed under this chapter shall have, with respect to
3 all matters in the independent counsel's prosecutorial
4 jurisdiction established under this chapter, full power and
5 independent authority to exercise all investigative and
6 prosecutorial functions and powers of the Office of Attorney
7 General, the Attorney General and any other officer or employee
8 of the Office of Attorney General. Investigative and
9 prosecutorial functions and powers shall include, but are not
10 limited to:

11 (1) Conducting proceedings before grand juries and other
12 investigations.

13 (2) Participating in court proceedings and engaging in
14 any litigation, including civil and criminal matters, that
15 the independent counsel considers necessary.

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

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

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

23 (6) Receiving appropriate security clearances and, if
24 necessary, contesting in court, including, where appropriate,
25 participating in an in camera proceeding, any claim of
26 privilege or attempt to withhold evidence on grounds of
27 security.

28 (7) Making applications to any State court for a grant
29 of immunity to any witness, consistent with applicable
30 statutory requirements, or for warrants, subpoenas or other

1 court orders and exercising the authority vested in the
2 Attorney General or a district attorney.

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

6 (9) Initiating and conducting prosecutions in any court
7 of competent jurisdiction, framing and signing indictments,
8 filing information and handling all aspects of any case in
9 the name of the Commonwealth.

10 (10) Consulting with the district attorney for the
11 county in which any violation of law with respect to which
12 the independent counsel is appointed was alleged to have
13 occurred.

14 § 9532. Compensation and travel expenses.

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

21 § 9533. Additional personnel.

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

1 § 9534. Assistance of Pennsylvania State Police.

2 (a) Carrying out functions.--An independent counsel may
3 request assistance from the Pennsylvania State Police in
4 carrying out the functions of the independent counsel, and the
5 Pennsylvania State Police shall provide that assistance, which
6 may include the use of the resources and personnel necessary to
7 perform the independent counsel's duties.

8 (b) Payment of and reports on expenditures of independent
9 counsel.--Upon the request of the Governor, the General Assembly
10 shall appropriate the necessary funds to the State Treasurer for
11 the use and operation in executing the duties and
12 responsibilities of the position of independent counsel. Upon
13 the request of the Governor, the General Assembly shall
14 appropriate the necessary funds to the Pennsylvania State Police
15 for costs incurred when rendering assistance to the independent
16 counsel as provided for under subsection (a). The State
17 Treasurer shall submit to the General Assembly, no later than 30
18 days after the end of each fiscal year, a report on amounts paid
19 during that fiscal year for expenses of investigations and
20 prosecutions by independent counsel. Each report shall include a
21 statement of all payments made for activities of independent
22 counsel.

23 § 9535. Referral of other matters to independent counsel.

24 An independent counsel may ask the panel to refer to the
25 independent counsel matters related to the independent counsel's
26 prosecutorial jurisdiction, and the panel may refer these
27 matters. If the Attorney General refers a matter to an
28 independent counsel on the Attorney General's own initiative,
29 the independent counsel may accept the referral if the matter
30 relates to the independent counsel's prosecutorial jurisdiction.

1 § 9536. Dismissal of matters.

2 The independent counsel shall have full authority to dismiss
3 matters within the independent counsel's prosecutorial
4 jurisdiction without conducting an investigation or at any
5 subsequent time before prosecution.

6 § 9537. Reports by independent counsel.

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

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

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

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

1 report for the purposes of receiving within a time limit set by
2 the panel any comments or factual information that the
3 individual may submit. The comments and factual information, in
4 whole or in part, may in the discretion of the panel be included
5 as an appendix to the final report.

6 § 9538. Independence from Office of Attorney General.

7 Each independent counsel appointed under this chapter and the
8 persons appointed by that independent counsel under section 9533
9 (relating to additional personnel) are separate from and
10 independent of the Office of Attorney General.

11 § 9539. Standards of conduct applicable to independent counsel,
12 persons serving in office of independent counsel and
13 their law firms.

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

26 (b) Postemployment restrictions on independent counsel and
27 appointees.--

28 (1) Each independent counsel and each person appointed
29 by that independent counsel under section 9533 may not for
30 three years following the termination of service under this

1 chapter of that independent counsel or appointed person, as
2 the case may be, represent any person in any matter if that
3 individual was the subject of an investigation or prosecution
4 conducted by that independent counsel under this chapter.

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

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

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

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

23 "Firm." A law firm, whether organized as a partnership or
24 corporation.

25 § 9540. Custody of records of independent counsel.

26 (a) Transfer of records.--Upon termination of the office of
27 independent counsel, that independent counsel shall transfer to
28 the Bureau of Archives and History of the Pennsylvania
29 Historical and Museum Commission all records which have been
30 created or received by that office. Before this transfer, the

1 independent counsel shall clearly identify which of these
2 records are subject to the Pennsylvania Rules of Criminal
3 Procedure as grand jury materials.

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

8 § 9541. Cost controls and administrative support.

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

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

11 (2) Authorize only reasonable and lawful expenditures.

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

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

21 § 9542. Legislative oversight.

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

1 the independent counsel should be kept confidential but shall
2 provide information adequate to justify the expenditures that
3 the office of the independent counsel has made.

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

12 § 9543. Removal of independent counsel and termination of
13 office.

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

15 (1) An independent counsel appointed under this chapter
16 may be removed from office only by the personal action of the
17 General Counsel and only for good cause, physical disability,
18 mental incapacity or any other condition that substantially
19 impairs the performance of the independent counsel's duties.
20 For purposes of this paragraph, the term "good cause"
21 includes, but is not limited to, violations of any ethical
22 rules governing the independent counsel, the Attorney General
23 or district attorneys.

24 (2) If an independent counsel is removed from office,
25 the General Counsel shall promptly submit to the panel, the
26 Judiciary Committee of the Senate and the Judiciary Committee
27 of the House of Representatives a report specifying the facts
28 found and the ultimate grounds for the removal. The
29 committees may make available to the public the report,
30 except that each committee may, if necessary to protect the

1 rights of any individual named in the report or to prevent
2 undue interference with any pending prosecution, postpone or
3 refrain from publishing any or all of the report. The panel
4 may release any or all of the report in accordance with
5 section 9537(b) (relating to reports by independent counsel).

6 (3) An independent counsel removed from office may
7 obtain judicial review of the removal in a civil action
8 commenced in the Commonwealth Court. The independent counsel
9 may be reinstated or granted other appropriate relief by
10 order of the Commonwealth Court. A member of the panel may
11 not hear or determine any such civil action or any appeal of
12 a decision in any such civil action.

13 (b) Termination of office.--

14 (1) An office of independent counsel shall terminate
15 when the independent counsel:

16 (i) notifies the panel that the investigation of all
17 matters within the prosecutorial jurisdiction of the
18 independent counsel or accepted by the independent
19 counsel, and any resulting prosecutions, have been
20 completed; and

21 (ii) files a final report in compliance with section
22 9537.

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

29 § 9544. Audits.

30 By December 31 of each year, an independent counsel shall

1 prepare a statement of expenditures for the fiscal year that
2 ended on the immediately preceding June 30. An independent
3 counsel whose office is terminated prior to the end of the
4 fiscal year shall prepare a statement of expenditures within 90
5 days of the date on which the office is terminated. The Auditor
6 General shall audit each statement and report the results of
7 each audit to the appropriate committees of the General Assembly
8 no later than March 31 of the year following the submission of
9 the statement.

10 § 9545. Relationship with Office of Attorney General.

11 Whenever a matter is in the prosecutorial jurisdiction of an
12 independent counsel or has been accepted by an independent
13 counsel under section 9535 (relating to referral of other
14 matters to independent counsel), the Office of Attorney General,
15 the Attorney General, all other officers and employees of the
16 Office of Attorney General and any district attorney shall
17 suspend all investigations and proceedings regarding that matter
18 and shall turn over to the independent counsel all materials,
19 files and other data relating to that matter.

20 § 9546. Venue.

21 The proper venue for all prosecutions conducted by the
22 independent counsel shall be determined in accordance with the
23 Pennsylvania Rules of Criminal Procedure. For the purposes of
24 convenience and fairness, the panel may, however, set the venue
25 in any other county on its own motion or at the request of the
26 independent counsel or on petition of the defendant.

27 SUBCHAPTER D

28 MISCELLANEOUS PROVISIONS

29 Sec.

30 9551. Severability of chapter.

1 9552. Expiration of chapter.

2 § 9551. Severability of chapter.

3 The provisions of this chapter are severable. If any
4 provision of this chapter or its application to any person or
5 circumstance is held invalid, the invalidity shall not affect
6 other provisions or applications of this chapter which can be
7 given effect without the invalid provision or application.

8 § 9552. Expiration of chapter.

9 This chapter shall expire five years from the effective date
10 of this section, except with respect to any matters pending
11 before an independent counsel that in the judgment of the
12 independent counsel require continuation. Matters shall be
13 continued until the independent counsel determines the matters
14 are completed.

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