
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 309 Session of
2015

INTRODUCED BY THOMAS, FEBRUARY 2, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 2, 2015

AN ACT

1 Providing for an independent prosecutor to investigate peace
2 officers.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Independent
7 Prosecutor Act.

8 Section 2. Definitions.

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

12 "Independent prosecutor." An employee within the Office of
13 Attorney General who is designated to oversee, investigate and
14 prosecute incidents relating to peace officers involved in
15 incidents which may constitute criminal homicide or drug
16 trafficking.

17 Section 3. Criminal prosecution.

18 (a) Jurisdiction of Attorney General.--The Attorney General

1 shall have exclusive jurisdiction to and shall appoint an
2 independent prosecutor to investigate and prosecute the conduct
3 of a peace officer, as defined by 18 Pa.C.S. § 501 (relating to
4 definitions), who, acting in his or her official capacity, is
5 involved in an incident in which an individual has died under
6 circumstances which may constitute the offense of criminal
7 homicide under 18 Pa.C.S. Ch. 25 (relating to criminal homicide)
8 or an incident of drug trafficking punishable under 18 Pa.C.S. §
9 7508 (relating to drug trafficking sentencing and penalties) as
10 a result of the peace officer's conduct.

11 (b) Independent prosecutor.--The independent prosecutor
12 shall have the sole authority to investigate the circumstances
13 and to prosecute under this subsection if the circumstances
14 warrant.

15 (c) Qualifications of an independent prosecutor.--An
16 independent prosecutor must have a minimum of three years'
17 experience in either criminal defense or criminal prosecutions
18 in this Commonwealth.

19 (d) Powers of the independent prosecutor.--Notwithstanding
20 any other provision of law, an independent prosecutor appointed
21 under this section shall have, with respect to all matters in
22 the independent prosecutor's prosecutorial jurisdiction
23 established under this section, full power and independent
24 authority to exercise all investigative and prosecutorial
25 functions and powers of the Office of Attorney General, the
26 Attorney General and any other officer or employee of the Office
27 of Attorney General. Investigative and prosecutorial functions
28 and powers shall include, but are not limited to:

29 (1) Conducting proceedings before grand juries and other
30 investigations.

1 (2) Bringing charges without a grand jury indictment.

2 (3) Participating in court proceedings and engaging in
3 any litigation, including civil and criminal matters, that
4 the independent prosecutor considers necessary.

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

8 (5) Reviewing all documentary evidence available from
9 any source.

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

12 (7) Receiving appropriate security clearances and, if
13 necessary, contesting in court, including, where appropriate,
14 participating in an in-camera proceeding, any claim of
15 privileges or attempt to withhold evidence on grounds of
16 security.

17 (8) Making applications to any State court for a grant
18 of immunity to a witness, consistent with applicable
19 statutory requirements, or for warrants, subpoenas or other
20 court orders and exercising the authority vested in the
21 Attorney General or a district attorney.

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

25 (10) 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 (11) Consulting with the district attorney for the
30 county in which a violation of law, with respect to which the

1 independent prosecutor is appointed, has allegedly occurred.

2 (e) Report to the Attorney General.--The independent
3 prosecutor shall submit a report to the Attorney General
4 detailing what, if any, charges were brought or the rationale
5 for why no charges were brought. Notwithstanding other
6 provisions of law, the report filed under this section shall be
7 made available to the public.

8 Section 4. Effective date.

9 This act shall take effect in 90 days.