

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2697 Session of
1992

INTRODUCED BY BIRMELIN, TIGUE, CAWLEY, DEMPSEY, HAGARTY, FARGO,
NYCE, BUNT, LAWLESS AND JOSEPHS, MAY 11, 1992

REFERRED TO COMMITTEE ON JUDICIARY, MAY 11, 1992

AN ACT

1 Amending the act of October 15, 1980 (P.L.950, No.164), entitled
2 "A supplement to the act of April 9, 1929 (P.L.177, No.175),
3 entitled 'An act providing for and reorganizing the conduct
4 of the executive and administrative work of the Commonwealth
5 by the Executive Department thereof and the administrative
6 departments, boards, commissions, and officers thereof,
7 including the boards of trustees of State Normal Schools, or
8 Teachers Colleges; abolishing, creating, reorganizing or
9 authorizing the reorganization of certain administrative
10 departments, boards, and commissions; defining the powers and
11 duties of the Governor and other executive and administrative
12 officers, and of the several administrative departments,
13 boards, commissions, and officers; fixing the salaries of the
14 Governor, Lieutenant Governor, and certain other executive
15 and administrative officers; providing for the appointment of
16 certain administrative officers, and of all deputies and
17 other assistants and employes in certain departments, boards,
18 and commissions; and prescribing the manner in which the
19 number and compensation of the deputies and all other
20 assistants and employes of certain departments, boards and
21 commissions shall be determined,' implementing the addition
22 of section 4.1 to Article IV of the Constitution of
23 Pennsylvania; establishing the Office of Attorney General
24 elected by the citizens and setting forth powers and duties
25 of the Attorney General; creating an Office of General
26 Counsel and providing for legal services for Commonwealth
27 agencies; transferring, reorganizing or reconstituting
28 certain boards, commissions and agencies; placing certain
29 duties upon the courts and district attorneys; repealing
30 certain acts and parts of acts and making appropriations,"
31 authorizing prosecution for violations of environmental laws.

32 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 205(a) and (b) of the act of October 15,
3 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act,
4 repealed in part December 20, 1982 (P.L.1409, No.326), are
5 amended to read:

6 Section 205. Criminal prosecutions.

7 (a) Prosecutions.--The Attorney General shall have the power
8 to prosecute in any county criminal court the following cases:

9 (1) Criminal charges against State officials or
10 employees affecting the performance of their public duties or
11 the maintenance of the public trust and criminal charges
12 against persons attempting to influence such State officials
13 or employees or benefit from such influence or attempt to
14 influence.

15 (2) Criminal charges involving corrupt organizations as
16 provided for in 18 Pa.C.S. § 911 (relating to corrupt
17 organizations).

18 (3) Upon the request of a district attorney who lacks
19 the resources to conduct an adequate investigation or the
20 prosecution of the criminal case or matter or who represents
21 that there is the potential for an actual or apparent
22 conflict of interest on the part of the district attorney or
23 his office.

24 (4) The Attorney General may petition the court having
25 jurisdiction over any criminal proceeding to permit the
26 Attorney General to supersede the district attorney in order
27 to prosecute a criminal action or to institute criminal
28 proceedings. Upon the filing of the petition, the president
29 judge shall request the Supreme Court to assign a judge to
30 hear the matter. The judge assigned shall hear the matter

1 within 30 days after appointment and make a determination as
2 to whether to allow supersession within 60 days after the
3 hearing. The district attorney shall be given notice of the
4 hearing and may appear and oppose the granting of the
5 petition. Supersession shall be ordered if the Attorney
6 General establishes by a preponderance of the evidence that
7 the district attorney has failed or refused to prosecute and
8 such failure or refusal constitutes abuse of discretion.

9 (5) When the president judge in the district having
10 jurisdiction of any criminal proceeding has reason to believe
11 that the case is a proper one for the intervention of the
12 Commonwealth, he shall request the Attorney General to
13 represent the Commonwealth in the proceeding and to
14 investigate charges and prosecute the defendant. If the
15 Attorney General agrees that the case is a proper one for
16 intervention, he shall file a petition with the court and
17 proceed as provided in paragraph (4). If the Attorney General
18 determines that the case is not a proper case for
19 intervention, he shall notify the president judge
20 accordingly.

21 (6) Criminal charges investigated by and referred to him
22 by a Commonwealth agency arising out of enforcement
23 provisions of the statute charging the agency with a duty to
24 enforce its provision.

25 (7) Indictments returned by an investigating grand jury
26 obtained by the Attorney General.

27 (8) Criminal charges arising out of activities of the
28 State Medicaid Fraud Control Unit as authorized by Article
29 XIV (relating to fraud and abuse control), act of June 13,
30 1967 (P.L.31, No.21), known as the "Public Welfare Code," and

1 the Federal law known as the "Medicare-Medicaid Antifraud and
2 Abuse Amendments."

3 (9) Criminal charges involving violations of the
4 environmental laws of the Commonwealth, including, but not
5 limited to, violations of the act of June 22, 1937 (P.L.1987,
6 No.394), known as "The Clean Streams Law," and violations of
7 the act of July 7, 1980 (P.L.380, No.97), known as the "Solid
8 Waste Management Act," and all criminal charges reasonably
9 related to such violations or discovered during
10 investigations of alleged violations of such environmental
11 laws.

12 (b) Concurrent jurisdiction to prosecute.--The Attorney
13 General shall have the concurrent prosecutorial jurisdiction
14 with the district attorney for cases arising under subsection
15 (a)(1), (2) [and], (6) and (9) and may refer to the district
16 attorney with his consent any violation or alleged violation of
17 the criminal laws of the Commonwealth which may come to his
18 notice.

19 * * *

20 Section 2. This act shall take effect in 60 days.