
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1378 Session of
1997

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PLATTS, CAPPABIANCA, HENNESSEY, SCRIMENTI, SURRA, CURRY AND
LUCYK, APRIL 29, 1997

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 29, 1997

AN ACT

1 Establishing the Special Independent Prosecutor's Panel and
2 providing for its powers and duties; and providing for
3 special investigative counsel and for independent counsel.

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30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 CHAPTER 1

3 PRELIMINARY PROVISIONS

4 Section 101. Short title.

5 This act shall be known and may be cited as the Independent
6 Counsel Authorization Act.

7 Section 102. Definitions.

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

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

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

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

18 "Panel." The Special Independent Prosecutor's Panel
19 established under Chapter 3.

20 "Special investigative counsel." A person appointed by the
21 General Counsel to conduct a preliminary investigation under
22 this act.

23 CHAPTER 3

24 GENERAL PROVISIONS

25 Section 301. Organization of panel.

26 (a) Composition and selection.--The Special Independent
27 Prosecutor's Panel shall be composed of one judge of the
28 Commonwealth Court and two judges, including senior judges, of
29 the courts of common pleas of the Commonwealth. The members of
30 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 from office shall automatically forfeit the position
12 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 act involving an
24 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 Section 302. 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.--

28 (1) In determining under subsection (a) whether grounds
29 to investigate exist, the General Counsel shall consider only
30 the following:

1 (i) The specificity of the information received.

2 (ii) The credibility of the source of the
3 information.

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

24 Section 303. Conduct of preliminary investigation.

25 (a) In general.--A preliminary investigation conducted under
26 this act shall be of matters as the special investigative
27 counsel considers appropriate in order to make a determination
28 under section 304 or 305 of whether further investigation is
29 warranted with respect to each potential violation or allegation
30 of a violation of criminal law. The special investigative

1 counsel shall make the determination no later than 90 days after
2 the preliminary investigation is commenced. The special
3 investigative counsel shall promptly notify the panel of the
4 date of the commencement of the preliminary investigation.

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

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

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

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

27 Section 304. Determination that further investigation not
28 warranted.

29 (a) Notification of panel.--If the special investigative
30 counsel upon completion of a preliminary investigation under

1 this act determines that there are no reasonable grounds to
2 believe that further investigation is warranted, the special
3 investigative counsel shall promptly so notify the panel, and
4 the panel shall have no power to appoint an independent counsel
5 with respect to the matters involved.

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

12 Section 305. Determination that further investigation is
13 warranted.

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

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

21 (2) the 90-day period referred to in section 303(a) and
22 any extension granted under section 303(c) have elapsed and
23 the special investigative counsel has not filed a
24 notification with the panel under section 304(a).

25 (b) Receipt of additional information.--If after submitting
26 a notification under section 304(a) the special investigative
27 counsel receives additional information sufficient to constitute
28 grounds to investigate the matters to which the notification
29 related, the special investigative counsel shall:

30 (1) Conduct an additional preliminary investigation as

1 the special investigative counsel considers appropriate for a
2 period of no more than 90 days after the date on which the
3 additional information is received.

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

8 Section 306. Contents of application.

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

16 Section 307. Disclosure of information.

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

26 Section 308. Limitation on judicial review.

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

30 Section 309. Duties of panel.

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

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

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

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

1 arise out of the investigation with respect to which the
2 special investigative counsel's request was made:

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

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

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

14 (b) Expansion of jurisdiction.--

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

19 (2) If the independent counsel discovers or receives
20 information about possible violations of criminal law by
21 persons as provided in section 302 which are not covered by
22 the prosecutorial jurisdiction of the independent counsel,
23 the independent counsel may submit the information to the
24 General Counsel. The General Counsel shall then appoint a
25 special investigative counsel to conduct a preliminary
26 investigation of the information in accordance with the
27 provisions of Chapter 3, except that the preliminary
28 investigation shall not exceed 30 days from the date the
29 information is received. In making the determinations
30 required by Chapter 3, the special investigative counsel

1 shall give great weight to any recommendations of the
2 independent counsel.

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

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

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

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

21 (5) If the independent counsel discovers or receives
22 information about possible violations of criminal law by
23 persons other than those provided for in section 302 and
24 which are not covered by the prosecutorial jurisdiction of
25 the independent counsel, and a request for expansion under
26 this subsection has not been made by the General Counsel or
27 the request for expansion under this subsection has been
28 denied by the panel, the independent counsel shall submit the
29 information to the appropriate law enforcement authority.

30 (c) Return for further explanation.--Upon receipt of a

1 notification under Chapter 3 or subsection (b)(3) from the
2 special investigative counsel that there are no reasonable
3 grounds to believe that further investigation is warranted with
4 respect to information received under this act, the panel shall
5 have no authority to overrule this determination but may return
6 the matter to the special investigative counsel for further
7 explanation of the reasons for the determination.

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

16 CHAPTER 5

17 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

18 Section 501. Authorities.

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

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

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 for a grant
16 of immunity to any witness, consistent with applicable
17 statutory requirements, or for warrants, subpoenas or other
18 court orders, and exercising the authority vested in the
19 Attorney General or a district attorney.

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

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

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

1 Section 502. Compensation and travel expenses.

2 An independent counsel appointed under this act shall receive
3 compensation at the per diem rate equal to the annual rate of
4 basic pay payable to the Attorney General. An independent
5 counsel and persons appointed under section 503 shall be
6 entitled to the payment of travel expenses.

7 Section 503. Additional personnel.

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

17 Section 504. Assistance of Pennsylvania State Police.

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

24 (b) Payment of and reports on expenditures of independent
25 counsel.--Upon the request of the Governor, the General Assembly
26 shall appropriate the necessary funds to the State Treasurer for
27 the use and operation in executing the duties and
28 responsibilities of the position of independent counsel. The
29 State Treasurer shall submit to the General Assembly, no later
30 than 30 days after the end of each fiscal year, a report on

1 amounts paid during that fiscal year for expenses of
2 investigations and prosecutions by independent counsel. Each
3 report shall include a statement of all payments made for
4 activities of independent counsel.

5 Section 505. Referral of other matters to independent counsel.

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

13 Section 506. Dismissal of matters.

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

18 Section 507. Reports by independent counsel.

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

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

28 (2) Before the termination of the independent counsel's
29 office under section 513(b), file a final report with the
30 panel, setting forth fully and completely a description of

1 all prosecutions. All other information shall be confidential
2 and not subject to public disclosure.

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

16 Section 508. Independence from Office of Attorney General.

17 Each independent counsel appointed under this act and the
18 persons appointed by that independent counsel under section 503
19 are separate from and independent of the Office of Attorney
20 General.

21 Section 509. Standards of conduct applicable to independent
22 counsel, persons serving in office of independent
23 counsel and their law firms.

24 (a) Restrictions on employment while independent counsel and
25 appointees are serving.--During the period in which an
26 independent counsel is serving under this act, the independent
27 counsel and any person associated with a firm with which the
28 independent counsel is associated may not represent in any
29 matter any person involved in any investigation or prosecution
30 under this act. During the period in which any person appointed

1 by an independent counsel under section 503 is serving in the
2 office of independent counsel, the person may not represent in
3 any matter any person involved in any investigation or
4 prosecution under this act.

5 (b) Post-employment restrictions on independent counsel and
6 appointees.--

7 (1) Each independent counsel and each person appointed
8 by that independent counsel under section 503 may not for
9 three years following the termination of service under this
10 act of that independent counsel or appointed person, as the
11 case may be, represent any person in any matter if that
12 individual was the subject of an investigation or prosecution
13 conducted by that independent counsel under this act.

14 (2) Each independent counsel and each person appointed
15 by that independent counsel under section 503 may not for one
16 year following the termination of service under this act of
17 that independent counsel or appointed person, as the case may
18 be, represent any person in any matter involving any
19 investigation or prosecution under this act.

20 (c) One-year ban on representation by members of firms of
21 independent counsel.--Any person who is associated with a firm
22 with which an independent counsel is associated or becomes
23 associated after termination of service of that independent
24 counsel under this act may not for one year following the
25 termination represent any person in any matter involving any
26 investigation or prosecution under this act.

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

30 "Associated with a firm." A person who is an officer,

1 director, partner or other member or employee of a law firm.

2 "Firm." A law firm, whether organized as a partnership or
3 corporation.

4 Section 510. Custody of records of independent counsel.

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

13 (b) Maintenance, use and disposal of records.--Records
14 transferred to the Bureau of Archives and History under this
15 section shall be maintained, used and disposed of as provided by
16 law.

17 Section 511. Cost controls and administrative support.

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

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

20 (2) Authorize only reasonable and lawful expenditures.

21 (3) Promptly upon taking office assign to a specific
22 employee the duty of certifying that expenditures of the
23 independent counsel are reasonable and made in accordance
24 with law.

25 (b) Office of Administration policies.--An independent
26 counsel shall comply with the established policies of the Office
27 of Administration of the Governor respecting expenditures of
28 funds, except to the extent that compliance would be
29 inconsistent with the purposes of this act.

30 Section 512. Legislative oversight.

1 (a) Oversight of conduct of independent counsel.--An
2 independent counsel appointed under this act shall submit to the
3 General Assembly a report detailing all moneys expended as
4 required under section 507(a)(1). In addition, the independent
5 counsel shall submit annually a report on the activities of the
6 independent counsel, including a description of the progress of
7 any investigation or prosecution conducted by the independent
8 counsel. The report may omit any matter that in the judgment of
9 the independent counsel should be kept confidential, but shall
10 provide information adequate to justify the expenditures that
11 the office of the independent counsel has made.

12 (b) Information relating to impeachment.--An independent
13 counsel shall advise the House of Representatives of any
14 substantial and credible information which the independent
15 counsel receives in carrying out the independent counsel's
16 responsibilities under this act that may constitute grounds for
17 an impeachment. Nothing in this act shall prevent the General
18 Assembly or either house thereof from obtaining information in
19 the course of an impeachment proceeding.

20 Section 513. Removal of independent counsel and termination of
21 office.

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

23 (1) An independent counsel appointed under this act may
24 be removed from office only by the personal action of the
25 General Counsel and only for good cause, physical disability,
26 mental incapacity or any other condition that substantially
27 impairs the performance of the independent counsel's duties.
28 For purposes of this paragraph, the term "good cause"
29 includes, but is not limited to, violations of canons of
30 ethics governing the independent counsel and district

1 attorneys.

2 (2) If an independent counsel is removed from office,
3 the General Counsel shall promptly submit to the panel, the
4 Judiciary Committee of the Senate and the Judiciary Committee
5 of the House of Representatives a report specifying the facts
6 found and the ultimate grounds for the removal. The
7 committees may make available to the public the report,
8 except that each committee may, if necessary to protect the
9 rights of any individual named in the report or to prevent
10 undue interference with any pending prosecution, postpone or
11 refrain from publishing any or all of the report. The panel
12 may release any or all of the report in accordance with
13 section 507(b).

14 (3) An independent counsel removed from office may
15 obtain judicial review of the removal in a civil action
16 commenced in the Commonwealth Court. The independent counsel
17 may be reinstated or granted other appropriate relief by
18 order of the Commonwealth Court. A member of the panel may
19 not hear or determine any such civil action or any appeal of
20 a decision in any such civil action.

21 (b) Termination of office.--

22 (1) An office of independent counsel shall terminate
23 when the independent counsel:

24 (i) notifies the panel that the investigation of all
25 matters within the prosecutorial jurisdiction of the
26 independent counsel or accepted by the independent
27 counsel, and any resulting prosecutions, have been
28 completed; and

29 (ii) files a final report in compliance with section
30 507.

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

7 Section 514. Audits.

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

18 Section 515. Relationship with Office of Attorney General.

19 Whenever a matter is in the prosecutorial jurisdiction of an
20 independent counsel or has been accepted by an independent
21 counsel under section 505, the Office of Attorney General, the
22 Attorney General, all other officers and employees of the Office
23 of Attorney General and any district attorney shall suspend all
24 investigations and proceedings regarding that matter and shall
25 turn over to the independent counsel all materials, files and
26 other data relating to that matter.

27 Section 516. Venue.

28 The proper venue for all prosecutions conducted by the
29 independent counsel shall be determined in accordance with the
30 Pennsylvania Rules of Criminal Procedure. For the purposes of

1 convenience and fairness, the panel may, however, set the venue
2 in any other county on its own motion or at the request of the
3 independent counsel or on petition of the defendant.

4 CHAPTER 11

5 MISCELLANEOUS PROVISIONS

6 Section 1101. Severability.

7 The provisions of this act are severable. If any provision of
8 this act or its application to any person or circumstance is
9 held invalid, the invalidity shall not affect other provisions
10 or applications of this act which can be given effect without
11 the invalid provision or application.

12 Section 1102. Expiration.

13 This act shall expire five years after the date of the
14 enactment of this act, except with respect to any matters
15 pending before an independent counsel that in the judgment of
16 the independent counsel require continuation. Matters shall be
17 continued until the independent counsel determines the matters
18 are completed.

19 Section 1103. Effective date.

20 This act shall take effect in 30 days.