

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1116 Session of 2017

INTRODUCED BY SIMS, J. HARRIS, KINSEY, McNEILL, McCLINTON AND DONATUCCI, APRIL 10, 2017

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 2017

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," in  
31 general provisions, further providing for definitions; and,  
32 in Office of Attorney General, further providing for criminal  
33 prosecutions.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3 Section 1. Section 102 of the act of October 15, 1980  
4 (P.L.950, No.164), known as the Commonwealth Attorneys Act, is  
5 amended by adding a definition to read:

6 Section 102. Definitions.

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

10 \* \* \*

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

15 Section 2. Section 205 of the act is amended by adding a  
16 subsection to read:

17 Section 205. Criminal prosecutions.

18 \* \* \*

19 (e) Special prosecutor.--

20 (1) The Attorney General shall have exclusive  
21 jurisdiction to and shall appoint a special prosecutor to  
22 investigate and prosecute the conduct of a peace officer, as  
23 defined by 18 Pa.C.S. § 501 (relating to definitions), who,  
24 acting in his official capacity, is involved in an incident  
25 in which an individual has died under circumstances which may  
26 constitute the offense of criminal homicide under 18 Pa.C.S.  
27 Ch. 25 (relating to criminal homicide) as a result of the  
28 peace officer's conduct.

29 (2) The special prosecutor shall have the sole authority  
30 to investigate the circumstances and to prosecute under this

1 subsection if the circumstances warrant.

2 (3) A special prosecutor must have a minimum of three  
3 years' experience in either criminal defense or criminal  
4 prosecutions in this Commonwealth.

5 (4) Notwithstanding any other provision of law, a  
6 special prosecutor appointed under this section shall have,  
7 with respect to all matters in the special prosecutor's  
8 prosecutorial jurisdiction established under this section,  
9 full power and independent authority to exercise all  
10 investigative and prosecutorial functions and powers of the  
11 Office of Attorney General, the Attorney General and any  
12 other officer or employee of the Office of Attorney General.  
13 Investigative and prosecutorial functions and powers shall  
14 include, but are not limited to:

15 (i) Conducting proceedings before grand juries and  
16 other investigations.

17 (ii) Bringing charges without a grand jury  
18 indictment.

19 (iii) Participating in court proceedings and  
20 engaging in any litigation, including civil and criminal  
21 matters, that the special prosecutor considers necessary.

22 (iv) Appealing any decision of a court in any case  
23 or proceeding in which the special prosecutor  
24 participates in an official capacity.

25 (v) Reviewing all documentary evidence available  
26 from any source.

27 (vi) Determining whether to contest the assertion of  
28 any testimonial privilege.

29 (vii) Receiving appropriate security clearances and,  
30 if necessary, contesting in court, including, where

1 appropriate, participating in an in camera proceeding,  
2 any claim of privileges or attempt to withhold evidence  
3 on grounds of security.

4 (viii) Making applications to any State court for a  
5 grant of immunity to a witness, consistent with  
6 applicable statutory requirements, or for warrants,  
7 subpoenas or other court orders and exercising the  
8 authority vested in the Attorney General or a district  
9 attorney.

10 (ix) Inspecting, obtaining or using the original or  
11 a copy of any tax return in accordance with applicable  
12 statutes and regulations.

13 (x) Initiating and conducting prosecutions in any  
14 court of competent jurisdiction, framing and signing  
15 indictments, filing information and handling all aspects  
16 of any case in the name of the Commonwealth.

17 (xi) Consulting with the district attorney for the  
18 county in which a violation of law, with respect to which  
19 the special prosecutor is appointed, has allegedly  
20 occurred.

21 (5) The special prosecutor shall submit a report to the  
22 Attorney General detailing what, if any, charges were brought  
23 or the rationale for why no charges were brought.  
24 Notwithstanding any other provision of law, the report filed  
25 under this section shall be made available to the public.

26 Section 3. This act shall take effect in 90 days.