
 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, HEFFLEY AND GABLER, MAY 6, 2015

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED, JUNE 27,
2016

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

1 ~~duties upon the courts and district attorneys; repealing~~
2 ~~certain acts and parts of acts and making appropriations," in~~
3 ~~Office of Attorney General, further providing for criminal~~
4 ~~prosecutions; and, in Office of General Counsel, providing~~
5 ~~for investigations involving the Attorney General. PROVIDING <--~~
6 ~~FOR CONFLICTS OF INTEREST; AND REPEALING AND ADDING~~
7 ~~PROVISIONS RELATING TO INDEPENDENT COUNSEL.~~

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Chapter 93 of Title 18 of the Pennsylvania <--~~
11 ~~Consolidated Statutes is repealed:~~

12 ~~{§ 9301. Short title of chapter.~~

13 ~~This chapter shall be known and may be cited as the~~
14 ~~Independent Counsel Authorization Act. § 9302. Definitions.~~

15 ~~The following words and phrases when used in this chapter~~
16 ~~shall have, unless the context clearly indicates otherwise, the~~
17 ~~meanings given to them in this section:~~

18 ~~"General Counsel." The General Counsel of the Commonwealth.~~

19 ~~"Grounds to investigate." Information which would lead a~~
20 ~~reasonable person to suspect that a crime is being or has been~~
21 ~~committed.~~

22 ~~"Independent counsel." A person appointed by the Special~~
23 ~~Independent Prosecutor's Panel upon the request of a special~~
24 ~~investigative counsel.~~

25 ~~"Panel." The Special Independent Prosecutor's Panel~~
26 ~~established under this chapter.~~

27 ~~"Special investigative counsel." A person appointed by the~~
28 ~~General Counsel to conduct a preliminary investigation under~~
29 ~~this chapter.~~

30 ~~§ 9311. Organization of panel.~~

31 ~~(a) Composition and selection. The Special Independent~~
32 ~~Prosecutor's Panel shall be composed of one judge of the~~
33 ~~Commonwealth Court and two judges, including senior judges, of~~

1 ~~the courts of common pleas of the Commonwealth. The members of~~
2 ~~the panel shall be chosen by lot. The procedure shall be~~
3 ~~determined by and supervised by the Court Administrator of~~
4 ~~Pennsylvania in the Administrative Office of Pennsylvania~~
5 ~~Courts. The Administrative Office of Pennsylvania Courts shall~~
6 ~~disclose to the public the membership of the panel.~~

7 ~~(b) Term of members. Each member of the panel shall hold~~
8 ~~office for a term of three years. Judges who are members of the~~
9 ~~panel and are required to retire under section 16 of Article V~~
10 ~~of the Constitution of Pennsylvania shall also vacate their~~
11 ~~positions on the panel unless assigned under Chapter 7 of the~~
12 ~~Rules of Judicial Administration. A judge who is otherwise~~
13 ~~removed or suspended from office shall automatically forfeit the~~
14 ~~position held by that judge on the panel.~~

15 ~~(c) Vacancies. Any vacancy in the panel shall be filled~~
16 ~~only for the remainder of the three year period in which the~~
17 ~~vacancy occurs and in the same manner as initial assignments to~~
18 ~~the panel were made.~~

19 ~~(d) Decisions by majority vote. All decisions of the panel~~
20 ~~shall be by majority vote of the members.~~

21 ~~(e) Clerk. The Prothonotary of Commonwealth Court shall~~
22 ~~serve as the clerk of the panel and shall provide such services~~
23 ~~as are needed by the panel.~~

24 ~~(f) Restriction. No member of the panel who participated in~~
25 ~~a function conferred on the panel under this chapter involving~~
26 ~~an independent counsel shall be eligible to participate in any~~
27 ~~judicial proceeding concerning a matter which involves the~~
28 ~~independent counsel and which involves the exercise of the~~
29 ~~independent counsel's official duties, regardless of whether the~~
30 ~~independent counsel is still serving in that office.~~

1 ~~§ 9312. Preliminary investigation.~~

2 ~~(a) Preliminary investigation with respect to certain~~
3 ~~covered persons. The General Counsel shall appoint a special~~
4 ~~investigative counsel to conduct a preliminary investigation in~~
5 ~~accordance with this chapter whenever the General Counsel~~
6 ~~receives information sufficient to constitute grounds to~~
7 ~~investigate whether any person described in subsection (c) may~~
8 ~~have committed any of the following:~~

9 ~~(1) An offense which is classified higher than a~~
10 ~~misdemeanor of the second degree.~~

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

17 ~~(b) Preliminary investigation with respect to persons not~~
18 ~~listed in subsection (c). The Attorney General shall request~~
19 ~~the General Counsel to appoint a special investigative counsel~~
20 ~~to conduct a preliminary investigation under the jurisdiction~~
21 ~~established or conferred under section 205(b) of the act of~~
22 ~~October 15, 1980 (P.L.950, No.164), known as the Commonwealth~~
23 ~~Attorneys Act, and 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. In addition, the~~
28 ~~Attorney General may request the General Counsel to appoint a~~
29 ~~special investigative counsel to conduct a preliminary~~
30 ~~investigation where the Attorney General determines that an~~

1 ~~investigation or prosecution of the person, with respect to the~~
2 ~~information received, by the Attorney General or other officer~~
3 ~~of the Attorney General's office may result in a personal,~~
4 ~~financial or political conflict of interest.~~

5 ~~(c) Persons to whom subsection (a) applies. The persons~~
6 ~~referred to in subsection (a) are as follows:~~

7 ~~(1) The Attorney General, any Deputy Attorney General or~~
8 ~~any individual working in the Attorney General's office who~~
9 ~~is defined as a "public employee" under the Public Official~~
10 ~~and Employee Ethics Law.~~

11 ~~(2) Any individual who leaves any office or position~~
12 ~~described in paragraph (1) during the incumbency of the~~
13 ~~Attorney General with or under whom such individual served in~~
14 ~~the office or position, plus one year after such incumbency,~~
15 ~~but in no event longer than a period of three years after the~~
16 ~~individual leaves the office or position.~~

17 ~~(3) Any individual who held an office or position~~
18 ~~described in paragraph (1) during the incumbency of one~~
19 ~~Attorney General and who continued to hold the office or~~
20 ~~position for not more than 90 days into the term of the next~~
21 ~~Attorney General, during the one year period after the~~
22 ~~individual leaves the office or position.~~

23 ~~(4) The chairman and treasurer of the principal campaign~~
24 ~~committee seeking the election or reelection of the Attorney~~
25 ~~General, and any officer of that committee exercising~~
26 ~~authority at the State level, during the incumbency of the~~
27 ~~elected Attorney General.~~

28 ~~(d) Examination of information to determine need for~~
29 ~~preliminary investigation. In determining under subsection (a)~~
30 ~~whether grounds to investigate exist, the General Counsel shall~~

~~1 consider only the specificity of the information received and
2 the credibility of the source of the information. The General
3 Counsel shall determine whether grounds to investigate exist no
4 later than 30 days after the information is first received. If
5 within that 30 day period the General Counsel determines that
6 the information is not specific or is not from a credible
7 source, then the General Counsel shall close the matter. If
8 within that 30 day period the General Counsel determines that
9 the information is specific and from a credible source, the
10 General Counsel shall, upon making that determination, appoint a
11 special investigative counsel to commence a preliminary
12 investigation with respect to that information. If the General
13 Counsel is unable to determine within that 30 day period whether
14 the information is specific and from a credible source, the
15 General Counsel shall at the end of that 30 day period appoint a
16 special investigative counsel to commence a preliminary
17 investigation with respect to that information. If a special
18 investigative counsel is appointed, the special investigative
19 counsel may only accept the appointment when such appointment
20 would not conflict with the rules governing professional
21 conduct.~~

~~22 § 9313. Conduct of preliminary investigation.~~

~~23 (a) In general. A preliminary investigation conducted under
24 this chapter shall be of matters as the special investigative
25 counsel considers appropriate in order to make a determination
26 under section 9314 (relating to determination that further
27 investigation not warranted) or 9315 (relating to determination
28 that further investigation is warranted) of whether further
29 investigation is warranted with respect to each potential
30 violation or allegation of a violation of criminal law. The~~

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

6 ~~(b) Limited authority of special investigative counsel.~~

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

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

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

28 ~~§ 9314. Determination that further investigation not warranted.~~

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

~~1 this chapter 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 § 9315. Determination that further investigation is warranted.~~

~~13 (a) Application for appointment of independent counsel. The
14 special investigative counsel shall apply to the panel for the
15 appointment of an independent counsel if:~~

~~16 (1) the special investigative counsel, upon completion
17 of a preliminary investigation under this chapter, determines
18 that there are reasonable grounds to believe that further
19 investigation is warranted; or~~

~~20 (2) the 90 day period referred to in section 9313(a)
21 (relating to conduct of preliminary investigation) and any
22 extension granted under section 9313(c) have elapsed and the
23 special investigative counsel has not filed a notification
24 with the panel under section 9314(a) (relating to
25 determination that further investigation not warranted).~~

~~26 (b) Receipt of additional information. If, after submitting
27 a notification under section 9314(a), the special investigative
28 counsel receives additional information sufficient to constitute
29 grounds to investigate the matters to which the notification
30 related, the special investigative counsel shall:~~

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

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

9 ~~§ 9316. Contents of application.~~

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

17 ~~§ 9317. Disclosure of information.~~

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

27 ~~§ 9318. Limitation on judicial review.~~

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

1 ~~§ 9319. Duties of panel.~~

2 ~~(a) Appointment and jurisdiction of independent counsel.~~

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

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

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

1 ~~to investigate and prosecute the following offenses which may~~
2 ~~arise out of the investigation with respect to which the~~
3 ~~special investigative counsel's request was made:~~

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

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

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

15 ~~(b) Expansion of jurisdiction.~~

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

20 ~~(2) If the independent counsel discovers or receives~~
21 ~~information about possible violations of criminal law by~~
22 ~~persons as provided in section 9312 (relating to preliminary~~
23 ~~investigation) which are not covered by the prosecutorial~~
24 ~~jurisdiction of the independent counsel, the independent~~
25 ~~counsel may submit the information to the General Counsel. In~~
26 ~~accordance with this subchapter, the General Counsel shall~~
27 ~~appoint a special investigative counsel to conduct a~~
28 ~~preliminary investigation of the information, except that the~~
29 ~~preliminary investigation shall not exceed 30 days from the~~
30 ~~date the information is received. In making the~~

1 ~~determinations required by this subchapter, the special~~
2 ~~investigative counsel shall give great weight to any~~
3 ~~recommendations of the independent counsel.~~

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

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

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

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

22 ~~(5) If the independent counsel discovers or receives~~
23 ~~information about possible violations of criminal law by~~
24 ~~persons other than those provided for in section 9312 and~~
25 ~~which are not covered by the prosecutorial jurisdiction of~~
26 ~~the independent counsel and a request for expansion under~~
27 ~~this subsection has not been made by the General Counsel or~~
28 ~~the request for expansion under this subsection has been~~
29 ~~denied by the panel, the independent counsel shall submit the~~
30 ~~information to the appropriate law enforcement authority.~~

1 ~~(c) Return for further explanation. Upon receipt of a~~
2 ~~notification under this subchapter that there are no reasonable~~
3 ~~grounds to believe that further investigation is warranted with~~
4 ~~respect to information received under this chapter, the panel~~
5 ~~shall have no authority to overrule this determination but may~~
6 ~~return the matter to the special investigative counsel for~~
7 ~~further 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 ~~§ 9331. Authorities.~~

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

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

29 ~~(2) Participating in court proceedings and engaging in~~
30 ~~any litigation, including civil and criminal matters, that~~

1 ~~the independent counsel considers necessary.~~

2 ~~(3) Appealing any decision of a court in any case or~~
3 ~~proceeding in which the independent counsel participates in~~
4 ~~an official capacity.~~

5 ~~(4) Reviewing all documentary evidence available from~~
6 ~~any source.~~

7 ~~(5) Determining whether to contest the assertion of any~~
8 ~~testimonial privilege.~~

9 ~~(6) Receiving appropriate security clearances and, if~~
10 ~~necessary, contesting in court, including, where appropriate,~~
11 ~~participating in an in camera proceeding, any claim of~~
12 ~~privilege or attempt to withhold evidence on grounds of~~
13 ~~security.~~

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

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

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

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

30 ~~§ 9332. Compensation and travel expenses.~~

1 ~~An independent counsel appointed under this chapter shall~~
2 ~~receive compensation at the per diem rate equal to the annual~~
3 ~~rate of basic pay payable to the Attorney General. An~~
4 ~~independent counsel and persons appointed under section 9333~~
5 ~~(relating to additional personnel) shall be entitled to the~~
6 ~~payment of travel expenses.~~

7 ~~§ 9333. 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 necessary experts to~~
13 ~~assist with the criminal investigation. The positions of these~~
14 ~~employees are exempted from the competitive service. Employees~~
15 ~~shall be compensated at levels not to exceed those payable for~~
16 ~~comparable positions in the Office of Attorney General.~~

17 ~~§ 9334. 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. Upon~~
29 ~~the request of the Governor, the General Assembly shall~~
30 ~~appropriate the necessary funds to the Pennsylvania State Police~~

1 ~~for costs incurred when rendering assistance to the independent~~
2 ~~counsel as provided for under subsection (a). The State~~
3 ~~Treasurer shall submit to the General Assembly, no later than 30~~
4 ~~days after the end of each fiscal year, a report on amounts paid~~
5 ~~during that fiscal year for expenses of investigations and~~
6 ~~prosecutions by independent counsel. Each report shall include a~~
7 ~~statement of all payments made for activities of independent~~
8 ~~counsel.~~

9 ~~§ 9335. Referral of other matters to independent counsel.~~

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

17 ~~§ 9336. Dismissal of matters.~~

18 ~~The independent counsel shall have full authority to dismiss~~
19 ~~matters within the independent counsel's prosecutorial~~
20 ~~jurisdiction without conducting an investigation or at any~~
21 ~~subsequent time before prosecution.~~

22 ~~§ 9337. Reports by independent counsel.~~

23 ~~(a) Required reports. An independent counsel shall:~~

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

1 ~~future expenses of that office.~~

2 ~~(2) Before the termination of the independent counsel's~~
3 ~~office under section 9343(b) (relating to removal of~~
4 ~~independent counsel and termination of office), file a final~~
5 ~~report with the panel, setting forth fully and completely a~~
6 ~~description of all prosecutions. All other information shall~~
7 ~~be confidential and not subject to public disclosure.~~

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

22 ~~§ 9338. Independence from Office of Attorney General.~~

23 ~~Each independent counsel appointed under this chapter and the~~
24 ~~persons appointed by that independent counsel under section 9333~~
25 ~~(relating to additional personnel) are separate from and~~
26 ~~independent of the Office of Attorney General.~~

27 ~~§ 9339. Standards of conduct applicable to independent counsel,~~
28 ~~persons serving in office of independent counsel and~~
29 ~~their law firms.~~

30 ~~(a) Restrictions on employment while independent counsel and~~

1 ~~appointees are serving. During the period in which an~~
2 ~~independent counsel is serving under this chapter, the~~
3 ~~independent counsel and any person associated with a firm with~~
4 ~~which the independent counsel is associated may not represent in~~
5 ~~any matter any person involved in any investigation or~~
6 ~~prosecution under this chapter. During the period in which any~~
7 ~~person appointed by an independent counsel under section 9333~~
8 ~~(relating to additional personnel) is serving in the office of~~
9 ~~independent counsel, the person may not represent in any matter~~
10 ~~any person involved in any investigation or prosecution under~~
11 ~~this chapter.~~

12 ~~(b) Postemployment restrictions on independent counsel and~~
13 ~~appointees.—~~

14 ~~(1) Each independent counsel and each person appointed~~
15 ~~by that independent counsel under section 9333 may not for~~
16 ~~three years following the termination of service under this~~
17 ~~chapter of that independent counsel or appointed person, as~~
18 ~~the case may be, represent any person in any matter if that~~
19 ~~individual was the subject of an investigation or prosecution~~
20 ~~conducted by that independent counsel under this chapter.~~

21 ~~(2) Each independent counsel and each person appointed~~
22 ~~by that independent counsel under section 9333 may not for~~
23 ~~one year following the termination of service under this~~
24 ~~chapter of that independent counsel or appointed person, as~~
25 ~~the case may be, represent any person in any matter involving~~
26 ~~any investigation or prosecution under this chapter.~~

27 ~~(c) One year ban on representation by members of firms of~~
28 ~~independent counsel. Any person who is associated with a firm~~
29 ~~with which an independent counsel is associated or becomes~~
30 ~~associated after termination of service of that independent~~

1 ~~counsel under this chapter may not for one year following the~~
2 ~~termination represent any person in any matter involving any~~
3 ~~investigation or prosecution under this chapter.~~

4 ~~(d) Definitions. As used in this section, the following~~
5 ~~words and phrases shall have the meanings given to them in this~~
6 ~~subsection:~~

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

9 ~~"Firm." A law firm, whether organized as a partnership or~~
10 ~~corporation.~~

11 ~~§ 9340. Custody of records of independent counsel.~~

12 ~~(a) Transfer of records. Upon termination of the office of~~
13 ~~independent counsel, that independent counsel shall transfer to~~
14 ~~the Bureau of Archives and History of the Pennsylvania~~
15 ~~Historical and Museum Commission all records which have been~~
16 ~~created or received by that office. Before this transfer, the~~
17 ~~independent counsel shall clearly identify which of these~~
18 ~~records are subject to the Pennsylvania Rules of Criminal~~
19 ~~Procedure as grand jury materials.~~

20 ~~(b) Maintenance, use and disposal of records. Records~~
21 ~~transferred to the Bureau of Archives and History under this~~
22 ~~section shall be maintained, used and disposed of as provided by~~
23 ~~law.~~

24 ~~§ 9341. Cost controls and administrative support.~~

25 ~~(a) Cost controls. An independent counsel shall:~~

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

27 ~~(2) Authorize only reasonable and lawful expenditures.~~

28 ~~(3) Promptly upon taking office assign to a specific~~
29 ~~employee the duty of certifying that expenditures of the~~
30 ~~independent counsel are reasonable and made in accordance~~

1 ~~with law.~~

2 ~~(b) Office of Administration policies. An independent~~
3 ~~counsel shall comply with the established policies of the Office~~
4 ~~of Administration of the Governor respecting expenditures of~~
5 ~~funds, except to the extent that compliance would be~~
6 ~~inconsistent with the purposes of this chapter.~~

7 ~~§ 9342. Legislative oversight.~~

8 ~~(a) Oversight of conduct of independent counsel. An~~
9 ~~independent counsel appointed under this chapter shall submit to~~
10 ~~the General Assembly a report detailing all moneys expended as~~
11 ~~required under section 9337(a)(1) (relating to reports by~~
12 ~~independent counsel). In addition, the independent counsel shall~~
13 ~~submit annually a report on the activities of the independent~~
14 ~~counsel, including a description of the progress of any~~
15 ~~investigation or prosecution conducted by the independent~~
16 ~~counsel. The report may omit any matter that in the judgment of~~
17 ~~the independent counsel should be kept confidential but shall~~
18 ~~provide information adequate to justify the expenditures that~~
19 ~~the office of the independent counsel has made.~~

20 ~~(b) Information relating to impeachment. An independent~~
21 ~~counsel shall advise the House of Representatives of any~~
22 ~~substantial and credible information which the independent~~
23 ~~counsel receives in carrying out the independent counsel's~~
24 ~~responsibilities under this chapter that may constitute grounds~~
25 ~~for an impeachment. Nothing in this chapter shall prevent the~~
26 ~~General Assembly or either house thereof from obtaining~~
27 ~~information in the course of an impeachment proceeding.~~

28 ~~§ 9343. Removal of independent counsel and termination of~~
29 ~~office.~~

30 ~~(a) Removal, report on removal and termination.~~

1 ~~(1) An independent counsel appointed under this chapter~~
2 ~~may be removed from office only by the personal action of the~~
3 ~~General Counsel and only for good cause, physical disability,~~
4 ~~mental incapacity or any other condition that substantially~~
5 ~~impairs the performance of the independent counsel's duties.~~
6 ~~For purposes of this paragraph, the term "good cause"~~
7 ~~includes, but is not limited to, violations of any ethical~~
8 ~~rules governing the independent counsel, the Attorney General~~
9 ~~or district attorneys.~~

10 ~~(2) If an independent counsel is removed from office,~~
11 ~~the General Counsel shall promptly submit to the panel, the~~
12 ~~Judiciary Committee of the Senate and the Judiciary Committee~~
13 ~~of the House of Representatives a report specifying the facts~~
14 ~~found and the ultimate grounds for the removal. The~~
15 ~~committees may make available to the public the report,~~
16 ~~except that each committee may, if necessary to protect the~~
17 ~~rights of any individual named in the report or to prevent~~
18 ~~undue interference with any pending prosecution, postpone or~~
19 ~~refrain from publishing any or all of the report. The panel~~
20 ~~may release any or all of the report in accordance with~~
21 ~~section 9337(b) (relating to reports by independent counsel).~~

22 ~~(3) An independent counsel removed from office may~~
23 ~~obtain judicial review of the removal in a civil action~~
24 ~~commenced in the Commonwealth Court. The independent counsel~~
25 ~~may be reinstated or granted other appropriate relief by~~
26 ~~order of the Commonwealth Court. A member of the panel may~~
27 ~~not hear or determine any such civil action or any appeal of~~
28 ~~a decision in any such civil action.~~

29 ~~(b) Termination of office.~~

30 ~~(1) An office of independent counsel shall terminate~~

1 ~~when the independent counsel:~~

2 ~~(i) notifies the panel that the investigation of all~~
3 ~~matters within the prosecutorial jurisdiction of the~~
4 ~~independent counsel or accepted by the independent~~
5 ~~counsel, and any resulting prosecutions, have been~~
6 ~~completed; and~~

7 ~~(ii) files a final report in compliance with section~~
8 ~~9337.~~

9 ~~(2) The panel shall determine on its own motion whether~~
10 ~~termination is appropriate under this subsection no later~~
11 ~~than two years after the appointment of an independent~~
12 ~~counsel or the reported expenditures of the independent~~
13 ~~counsel have reached \$2,000,000, whichever occurs first, and~~
14 ~~at the end of each succeeding one year period.~~

15 ~~§ 9344. Audits.~~

16 ~~By December 31 of each year, an independent counsel shall~~
17 ~~prepare a statement of expenditures for the fiscal year that~~
18 ~~ended on the immediately preceding June 30. An independent~~
19 ~~counsel whose office is terminated prior to the end of the~~
20 ~~fiscal year shall prepare a statement of expenditures within 90-~~
21 ~~days of the date on which the office is terminated. The Auditor~~
22 ~~General shall audit each statement and report the results of~~
23 ~~each audit to the appropriate committees of the General Assembly~~
24 ~~no later than March 31 of the year following the submission of~~
25 ~~the statement.~~

26 ~~§ 9345. Relationship with Office of Attorney General.~~

27 ~~Whenever a matter is in the prosecutorial jurisdiction of an~~
28 ~~independent counsel or has been accepted by an independent~~
29 ~~counsel under section 9335 (relating to referral of other~~
30 ~~matters to independent counsel), the Office of Attorney General,~~

1 ~~the Attorney General, all other officers and employees of the~~
2 ~~Office of Attorney General and any district attorney shall~~
3 ~~suspend all investigations and proceedings regarding that matter~~
4 ~~and shall turn over to the independent counsel all materials,~~
5 ~~files and other data relating to that matter.~~

6 ~~§ 9346. Venue.~~

7 ~~The proper venue for all prosecutions conducted by the~~
8 ~~independent counsel shall be determined in accordance with the~~
9 ~~Pennsylvania Rules of Criminal Procedure. For the purposes of~~
10 ~~convenience and fairness, the panel may, however, set the venue~~
11 ~~in any other county on its own motion or at the request of the~~
12 ~~independent counsel or on petition of the defendant.~~

13 ~~§ 9351. Severability of chapter.~~

14 ~~The provisions of this chapter are severable. If any~~
15 ~~provision of this chapter or its application to any person or~~
16 ~~circumstance is held invalid, the invalidity shall not affect~~
17 ~~other provisions or applications of this chapter which can be~~
18 ~~given effect without the invalid provision or application.~~

19 ~~§ 9352. Expiration of chapter.~~

20 ~~This chapter shall expire five years after the date of the~~
21 ~~enactment of this chapter, except with respect to any matters~~
22 ~~pending before an independent counsel that in the judgment of~~
23 ~~the independent counsel require continuation. Matters shall be~~
24 ~~continued until the independent counsel determines the matters~~
25 ~~are completed.}]~~

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

27 ~~CHAPTER 95~~

28 ~~INDEPENDENT COUNSEL~~

29 ~~Subchapter~~

30 ~~A. Preliminary Provisions~~

1 ~~B. General Provisions~~

2 ~~C. Authority and Duties of Independent Counsel~~

3 ~~D. Miscellaneous Provisions~~

4 ~~SUBCHAPTER A~~

5 ~~PRELIMINARY PROVISIONS~~

6 ~~Sec.~~

7 ~~9501. Scope of chapter.~~

8 ~~9502. Definitions.~~

9 ~~§ 9501. Scope of chapter.~~

10 ~~This chapter relates to independent counsel.~~

11 ~~§ 9502. Definitions.~~

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

15 ~~"General Counsel." The General Counsel of the Commonwealth.~~

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

19 ~~"Independent counsel." A person appointed by the Special~~
20 ~~Independent Prosecutor's Panel upon the request of a special~~
21 ~~investigative counsel.~~

22 ~~"Panel." The Special Independent Prosecutor's Panel~~
23 ~~established under this chapter.~~

24 ~~"Special investigative counsel." A person appointed by the~~
25 ~~General Counsel to conduct a preliminary investigation under~~
26 ~~this chapter.~~

27 ~~SUBCHAPTER B~~

28 ~~GENERAL PROVISIONS~~

29 ~~Sec.~~

30 ~~9511. Organization of panel.~~

1 ~~9512. Investigation of the Attorney General.~~
2 ~~9513. Conduct of preliminary investigation.~~
3 ~~9514. Determination that further investigation not warranted.~~
4 ~~9515. Determination that further investigation is warranted.~~
5 ~~9516. Contents of application.~~
6 ~~9517. Disclosure of information.~~
7 ~~9518. Limitation on judicial review.~~
8 ~~9519. Duties of panel.~~
9 ~~§ 9511. Organization of panel.~~

10 ~~(a) Composition and selection. The Special Independent~~
11 ~~Prosecutor's Panel shall be composed of one judge of the~~
12 ~~Commonwealth Court and two judges, including senior judges, of~~
13 ~~the courts of common pleas of the Commonwealth. The members of~~
14 ~~the panel shall be chosen by lot. The procedure shall be~~
15 ~~determined by and supervised by the Court Administrator of~~
16 ~~Pennsylvania in the Administrative Office of Pennsylvania~~
17 ~~Courts. The Administrative Office of Pennsylvania Courts shall~~
18 ~~disclose to the public the membership of the panel.~~

19 ~~(b) Term of members. Each member of the panel shall hold~~
20 ~~office for a term of three years. Judges who are members of the~~
21 ~~panel and are required to retire under section 16 of Article V~~
22 ~~of the Constitution of Pennsylvania shall also vacate their~~
23 ~~positions on the panel unless assigned under Chapter 7 of the~~
24 ~~Rules of Judicial Administration. A judge who is otherwise~~
25 ~~removed or suspended from office shall automatically forfeit the~~
26 ~~position held by that judge on the panel.~~

27 ~~(c) Vacancies. Any vacancy in the panel shall be filled~~
28 ~~only for the remainder of the three year period in which the~~
29 ~~vacancy occurs and in the same manner as initial assignments to~~
30 ~~the panel were made.~~

1 ~~(d) Decisions by majority vote. All decisions of the panel~~
2 ~~shall be by majority vote of the members.~~

3 ~~(e) Clerk. The Prothonotary of Commonwealth Court shall~~
4 ~~serve as the clerk of the panel and shall provide such services~~
5 ~~as are needed by the panel.~~

6 ~~(f) Restriction. No member of the panel who participated in~~
7 ~~a function conferred on the panel under this chapter involving~~
8 ~~an independent counsel shall be eligible to participate in any~~
9 ~~judicial proceeding concerning a matter which involves the~~
10 ~~independent counsel and which involves the exercise of the~~
11 ~~independent counsel's official duties, regardless of whether the~~
12 ~~independent counsel is still serving in that office.~~

13 ~~§ 9512. Investigation of the Attorney General.~~

14 ~~(a) Referral to district attorney. If a district attorney~~
15 ~~has or receives information that the Attorney General, either~~
16 ~~alone or in concert with others, may have committed an offense~~
17 ~~other than a summary offense, but lacks sufficient resources to~~
18 ~~conduct an adequate investigation or determines that there is a~~
19 ~~potential for an actual or apparent conflict of interest by the~~
20 ~~district attorney or the district attorney's office proceeding~~
21 ~~with an investigation or prosecution, the district attorney~~
22 ~~shall refer the matter to any other district attorney who may~~
23 ~~have jurisdiction over the matter.~~

24 ~~(b) Referral to General Counsel. If all other district~~
25 ~~attorneys having possible jurisdiction decline to accept~~
26 ~~jurisdiction over the matter due to a potential conflict of~~
27 ~~interest or a lack of resources to adequately investigate the~~
28 ~~case, the district attorney may refer the matter to the General~~
29 ~~Counsel who shall proceed as provided in this chapter.~~

30 ~~(c) Preliminary investigation. If the General Counsel~~

1 ~~receives a referral from a district attorney as provided in~~
2 ~~subsection (b), the General Counsel shall appoint a special~~
3 ~~investigative counsel to conduct a preliminary investigation in~~
4 ~~accordance with this chapter.~~

5 ~~§ 9513. Conduct of preliminary investigation.~~

6 ~~(a) In general. A preliminary investigation conducted under~~
7 ~~this chapter shall be of matters as the special investigative~~
8 ~~counsel considers appropriate in order to make a determination~~
9 ~~under section 9514 (relating to determination that further~~
10 ~~investigation not warranted) or 9515 (relating to determination~~
11 ~~that further investigation is warranted) of whether further~~
12 ~~investigation is warranted with respect to each potential~~
13 ~~violation or allegation of a violation of criminal law. The~~
14 ~~special investigative counsel shall make the determination no~~
15 ~~later than 90 days after the preliminary investigation is~~
16 ~~commenced. The special investigative counsel shall promptly~~
17 ~~notify the panel of the date of the commencement of the~~
18 ~~preliminary investigation.~~

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

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

28 ~~§ 9514. Determination that further investigation not warranted.~~

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

~~1 this chapter 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 Attorney General may request a copy of the summary from the
11 panel.~~

~~12 § 9515. Determination that further investigation is warranted.~~

~~13 (a) Application for appointment of independent counsel. The
14 special investigative counsel shall apply to the panel for the
15 appointment of an independent counsel if:~~

~~16 (1) the special investigative counsel, upon completion
17 of a preliminary investigation under this chapter, determines
18 that there are reasonable grounds to believe that further
19 investigation is warranted; or~~

~~20 (2) the 90 day period referred to in section 9513(a)
21 (relating to conduct of preliminary investigation) and any
22 extension granted under section 9513(c) have elapsed and the
23 special investigative counsel has not filed a notification
24 with the panel under section 9514(a) (relating to
25 determination that further investigation not warranted).~~

~~26 (b) Receipt of additional information. If, after submitting
27 a notification under section 9514(a), the special investigative
28 counsel receives additional information sufficient to constitute
29 grounds to investigate the matters to which the notification
30 related, the special investigative counsel shall:~~

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

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

9 ~~§ 9516. Contents of application.~~

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

17 ~~§ 9517. Disclosure of information.~~

18 ~~Except as otherwise provided in this chapter, no officer or~~
19 ~~employee of the office of special investigative counsel or the~~
20 ~~office of independent counsel may, without leave of the panel,~~
21 ~~disclose to any individual outside the office of special~~
22 ~~investigative counsel or office of independent counsel any~~
23 ~~notification, application or any other document, material or~~
24 ~~memorandum supplied to the panel under this chapter. Nothing in~~
25 ~~this chapter shall be construed as authorizing the withholding~~
26 ~~of information if required or permitted by order of a court of~~
27 ~~competent jurisdiction.~~

28 ~~§ 9518. Limitation on judicial review.~~

29 ~~The determination of the special investigative counsel under~~
30 ~~this chapter to apply to the panel for the appointment of an~~

1 ~~independent counsel shall not be reviewable in any court.~~

2 ~~§ 9519. Duties of panel.~~

3 ~~(a) Appointment and jurisdiction of independent counsel.~~

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

9 ~~(2) The panel shall not appoint as an independent~~
10 ~~counsel any person who holds any office of profit or trust~~
11 ~~with the Commonwealth. No person who is serving as a special~~
12 ~~investigative counsel may be appointed or serve as an~~
13 ~~independent counsel in the matter for which they had been~~
14 ~~appointed to investigate as special investigative counsel.~~

15 ~~(3) In defining the independent counsel's prosecutorial~~
16 ~~jurisdiction, the panel shall assure that the independent~~
17 ~~counsel has adequate authority to fully investigate and~~
18 ~~prosecute all crimes arising out of the subject matter with~~
19 ~~respect to which the special investigative counsel has~~
20 ~~requested the appointment of the independent counsel.~~

21 ~~(4) The panel shall disclose the identity of the~~
22 ~~independent counsel upon appointment.~~

23 ~~(b) Expansion of jurisdiction. The panel upon a showing of~~
24 ~~need by the independent counsel may expand the prosecutorial~~
25 ~~jurisdiction of an independent counsel.~~

26 ~~(c) Return for further explanation. Upon receipt of a~~
27 ~~notification from the special investigative counsel that there~~
28 ~~are no reasonable grounds to believe that further investigation~~
29 ~~is warranted with respect to information received under this~~
30 ~~chapter, the panel shall have no authority to overrule this~~

1 ~~determination but may return the matter to the special~~
2 ~~investigative counsel for further explanation of the reasons for~~
3 ~~the determination.~~

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

12 ~~SUBCHAPTER C~~

13 ~~AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL~~

14 ~~Sec.~~

15 ~~9531. Authorities.~~

16 ~~9532. Compensation and travel expenses.~~

17 ~~9333. Additional personnel.~~

18 ~~9534. Assistance of Pennsylvania State Police.~~

19 ~~9535. (Reserved).~~

20 ~~9536. Dismissal of matters.~~

21 ~~9537. Reports by independent counsel.~~

22 ~~9538. (Reserved).~~

23 ~~9539. Standards of conduct applicable to independent counsel,~~
24 ~~persons serving in office of independent counsel and~~
25 ~~their law firms.~~

26 ~~9540. Custody of records of independent counsel.~~

27 ~~9541. Cost controls and administrative support.~~

28 ~~9542. Legislative oversight.~~

29 ~~9543. Removal of independent counsel and termination of office.~~

30 ~~9544. Audits.~~

1 ~~9545. Suspension of investigations.~~

2 ~~§ 9531. Authorities.~~

3 ~~(a) General. Notwithstanding any other provision of law, an~~
4 ~~independent counsel appointed under this chapter shall serve as~~
5 ~~attorney for the Commonwealth and have, with respect to all~~
6 ~~matters in the independent counsel's prosecutorial jurisdiction~~
7 ~~established under this chapter, full power and independent~~
8 ~~authority to exercise all investigative and prosecutorial~~
9 ~~functions and powers of a district attorney. Investigative and~~
10 ~~prosecutorial functions and powers shall include, but are not~~
11 ~~limited to:~~

12 ~~(1) Convening and utilizing a grand jury in accordance~~
13 ~~with 42 Pa.C.S. Ch. 45 Subch. D (relating to investigating~~
14 ~~grand juries).~~

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

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

21 ~~(4) Reviewing all documentary evidence available from~~
22 ~~any source.~~

23 ~~(5) Determining whether to contest the assertion of any~~
24 ~~testimonial privilege.~~

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

30 ~~(7) Making applications to the supervising judge of a~~

~~grand jury or other court of competent jurisdiction for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas or other court orders and exercising the authority vested in the Attorney General or a district attorney.~~

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

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

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

~~(b) Submittal. If the independent counsel discovers or receives information about possible violations of criminal law by an individual other than the Attorney General and the violations do not involve participation by the Attorney General, the independent counsel may submit the information to the appropriate district attorney or other law enforcement authority.~~

~~§ 9532. Compensation and travel expenses.~~

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

1 ~~§ 9533. Additional personnel.~~

2 ~~For the purposes of carrying out the duties of the office of~~
3 ~~independent counsel, the independent counsel may appoint, fix~~
4 ~~the compensation and assign the duties of the employees the~~
5 ~~independent counsel considers necessary, including, but not~~
6 ~~limited to, investigators, attorneys and necessary experts to~~
7 ~~assist with the criminal investigation. The positions of these~~
8 ~~employees are exempted from the competitive service. Employees~~
9 ~~shall be compensated at levels not to exceed those payable for~~
10 ~~comparable positions in the Office of Attorney General.~~

11 ~~§ 9534. Assistance of Pennsylvania State Police.~~

12 ~~(a) Carrying out functions. An independent counsel may~~
13 ~~request assistance from the Pennsylvania State Police in~~
14 ~~carrying out the functions of the independent counsel, and the~~
15 ~~Pennsylvania State Police shall provide that assistance, which~~
16 ~~may include the use of the resources and personnel necessary to~~
17 ~~perform the independent counsel's duties.~~

18 ~~(b) Payment of and reports on expenditures of independent~~
19 ~~counsel. The General Assembly shall appropriate the necessary~~
20 ~~funds to the State Treasurer for the use and operation in~~
21 ~~executing the duties and responsibilities of the position of~~
22 ~~independent counsel. The General Assembly shall appropriate the~~
23 ~~necessary funds to the Pennsylvania State Police for costs~~
24 ~~incurred when rendering assistance to the independent counsel as~~
25 ~~provided for under subsection (a). The State Treasurer shall~~
26 ~~submit to the General Assembly, no later than 30 days after the~~
27 ~~end of each fiscal year, a report on amounts paid during that~~
28 ~~fiscal year for expenses of investigations and prosecutions by~~
29 ~~independent counsel. Each report shall include a statement of~~
30 ~~all payments made for activities of independent counsel.~~

1 ~~§ 9535. (Reserved).~~

2 ~~§ 9536. Dismissal of matters.~~

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

7 ~~§ 9537. Reports by independent counsel.~~

8 ~~(a) Required reports. An independent counsel shall:~~

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

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

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

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

7 ~~§ 9538. (Reserved).~~

8 ~~§ 9539. 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 who is or was the subject of any~~
17 ~~investigation or prosecution under this chapter. During the~~
18 ~~period in which any person appointed by an independent counsel~~
19 ~~under section 9533 (relating to additional personnel) is serving~~
20 ~~in the office of independent counsel, the person may not~~
21 ~~represent in any matter any person involved in any investigation~~
22 ~~or prosecution under 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 9533 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 9533 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 ~~§ 9540. 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 General Counsel all records which have been created or~~
26 ~~received by that office. Before this transfer, the independent~~
27 ~~counsel shall clearly identify which of these records are~~
28 ~~subject to the Pennsylvania Rules of Criminal Procedure as grand~~
29 ~~jury materials. All records shall remain under seal unless~~
30 ~~release has been ordered or approved by a court of competent~~

1 ~~jurisdiction or until they are required or permitted by law to~~
2 ~~be transferred to the Bureau of Archives and History of the~~
3 ~~Pennsylvania Historical and Museum Commission.~~

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 by the panel if, in the judgment~~
17 ~~of a majority of the panel, the independent counsel is~~
18 ~~unwilling or unable to perform the duties of the office in a~~
19 ~~timely and cost effective manner.~~

20 ~~(2) If an independent counsel is removed from office,~~
21 ~~the panel shall promptly notify the Judiciary Committee of~~
22 ~~the Senate and the Judiciary Committee of the House of~~
23 ~~Representatives and appoint a new qualified independent~~
24 ~~counsel.~~

25 ~~(b) Termination of office.~~

26 ~~(1) An office of independent counsel shall terminate~~
27 ~~when the independent counsel:~~

28 ~~(i) notifies the panel that the investigation of all~~
29 ~~matters within the prosecutorial jurisdiction of the~~
30 ~~independent counsel or accepted by the independent~~

~~counsel, and any resulting prosecutions and appeals, have
been completed; and~~

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

~~(2) The panel may terminate the office on its own motion
if, in its judgment, the purpose for which the independent
counsel was appointed no longer exists or that continuation
of the office is no longer necessary.~~

~~§ 9544. Audits.~~

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

~~§ 9545. Suspension of investigations.~~

~~Whenever a matter is in the prosecutorial jurisdiction of an
independent counsel, as approved by this chapter, who thereafter
begins an investigation into the same matter, any district
attorney shall suspend all investigations and proceedings
regarding that matter and shall turn over to the independent
counsel all materials, files and other data relating to that
matter.~~

~~SUBCHAPTER D~~

~~MISCELLANEOUS PROVISIONS~~

~~Sec.~~

1 ~~9551. Severability of chapter.~~

2 ~~9552. Expiration of chapter.~~

3 ~~§ 9551. Severability of chapter.~~

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

9 ~~§ 9552. Expiration of chapter.~~

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

16 ~~Section 3. Section 205(a)(3) of the act of October 15, 1980-~~
17 ~~(P.L.950, No.164), known as the Commonwealth Attorneys Act, is~~
18 ~~amended and the section is amended by adding a subsection to~~
19 ~~read:~~

20 ~~Section 205. Criminal prosecutions.~~

21 ~~(a) Prosecutions. The Attorney General shall have the power~~
22 ~~to prosecute in any county criminal court the following cases:~~

23 ~~* * *~~

24 ~~(3) Upon the request of a district attorney who lacks~~
25 ~~the resources to conduct an adequate investigation or the~~
26 ~~prosecution of the criminal case or matter or who represents~~
27 ~~that there is the potential for an actual or apparent~~
28 ~~conflict of interest on the part of the district attorney or~~
29 ~~his office[.] in accordance with the following:~~

30 ~~(i) If the Attorney General declines to accept or~~

1 ~~act on the request, the district attorney may refer the~~
2 ~~matter to any district attorney of a contiguous county~~
3 ~~who has sufficient resources and has no conflict of~~
4 ~~interest in representing the Commonwealth.~~

5 ~~(ii) If each of the district attorneys of the~~
6 ~~contiguous counties declines to accept the referral for~~
7 ~~any reason, the referring district attorney may refer the~~
8 ~~matter to a district attorney of a noncontiguous county.~~

9 ~~(iii) A district attorney who has accepted a case~~
10 ~~under subparagraph (i) or (ii) and a deputy or assistant~~
11 ~~district attorney on the district attorney's staff shall~~
12 ~~have the same authority to investigate and prosecute as~~
13 ~~the district attorney who referred the matter.~~

14 * * *

15 ~~(b.1) Procedure for potential conflict of interest. A case~~
16 ~~which creates a potential conflict of interest shall be~~
17 ~~investigated in accordance with the following:~~

18 ~~(1) If the Attorney General determines that the~~
19 ~~investigation or prosecution of any matter within the~~
20 ~~Attorney General's jurisdiction would create a potential for~~
21 ~~conflict of interest for the Attorney General or the Office~~
22 ~~of Attorney General, the Attorney General shall refer the~~
23 ~~matter to a district attorney having appropriate jurisdiction~~
24 ~~and venue to investigate and prosecute.~~

25 ~~(2) If the district attorney to whom the investigation~~
26 ~~or prosecution was referred lacks sufficient resources or~~
27 ~~determines that the matter creates a potential conflict of~~
28 ~~interest for the district attorney or the district attorney's~~
29 ~~office, the district attorney shall refer the matter to a~~
30 ~~district attorney of a contiguous county. If the district~~

~~attorneys of all contiguous counties decline to accept the referral for any reason, the referring district attorney may refer the matter to a district attorney of a noncontiguous county.~~

~~(3) A district attorney who has accepted a case under paragraph (1) or (2) and a deputy or assistant district attorney on the district attorney's staff shall have the same authority to investigate and prosecute as the district attorney who referred the matter.~~

~~* * *~~

~~Section 4. The Commonwealth Attorneys Act is amended by adding a section to read:~~

~~Section 301.1. Investigations involving the Attorney General.~~

~~If the General Counsel receives information sufficient to warrant further investigation that the Attorney General, either singularly or in concert with others, may have committed an offense other than a summary offense, the General Counsel shall notify a district attorney who appears to have jurisdiction over the matter based on the information available to the General Counsel at the time of the notification.~~

~~Section 5. This act shall take effect in 60 days.~~

SECTION 1. TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 92

CONFLICTS OF INTEREST

SEC.

9201. PROCEDURES.

§ 9201. PROCEDURES.

IF A DISTRICT ATTORNEY REQUESTS THAT THE ATTORNEY GENERAL EXERCISE THE POWER TO PROSECUTE IN A COUNTY CRIMINAL COURT OR

<--

1 JUVENILE DELINQUENCY COURT UNDER SECTION 205(A) (3) OF THE ACT OF
2 OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH
3 ATTORNEYS ACT, AND THE ATTORNEY GENERAL DECLINES TO ACCEPT OR
4 ACT ON THE REQUEST, THE FOLLOWING SHALL APPLY:

5 (1) THE DISTRICT ATTORNEY MAY REFER THE MATTER TO A
6 DISTRICT ATTORNEY OF A CONTIGUOUS COUNTY WHO HAS SUFFICIENT
7 RESOURCES AND HAS NO CONFLICT OF INTEREST IN REPRESENTING THE
8 COMMONWEALTH.

9 (2) IF THE DISTRICT ATTORNEYS OF THE CONTIGUOUS COUNTIES
10 DECLINE TO ACCEPT THE REFERRAL FOR ANY REASON, THE REFERRING
11 DISTRICT ATTORNEY MAY REFER THE MATTER TO A DISTRICT ATTORNEY
12 OF A NONCONTIGUOUS COUNTY.

13 (3) A DISTRICT ATTORNEY WHO HAS ACCEPTED A CASE UNDER
14 PARAGRAPH (1) OR (2) AND A DEPUTY OR ASSISTANT DISTRICT
15 ATTORNEY ON THE DISTRICT ATTORNEY'S STAFF SHALL HAVE THE SAME
16 AUTHORITY TO INVESTIGATE AND PROSECUTE AS THE DISTRICT
17 ATTORNEY WHO REFERRED THE MATTER.

18 SECTION 2. CHAPTER 93 OF TITLE 18 IS REPEALED:

19 [CHAPTER 93
20 INDEPENDENT COUNSEL

21 SUBCHAPTER

- 22 A. PRELIMINARY PROVISIONS
23 B. GENERAL PROVISIONS
24 C. AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL
25 D. MISCELLANEOUS PROVISIONS

26 SUBCHAPTER A
27 PRELIMINARY PROVISIONS

28 SEC.

29 9301. SHORT TITLE OF CHAPTER.

30 9302. DEFINITIONS.

1 § 9301. SHORT TITLE OF CHAPTER.

2 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
3 INDEPENDENT COUNSEL AUTHORIZATION ACT.

4 § 9302. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
6 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
7 MEANINGS GIVEN TO THEM IN THIS SECTION:

8 "GENERAL COUNSEL." THE GENERAL COUNSEL OF THE COMMONWEALTH.

9 "GROUNDS TO INVESTIGATE." INFORMATION WHICH WOULD LEAD A
10 REASONABLE PERSON TO SUSPECT THAT A CRIME IS BEING OR HAS BEEN
11 COMMITTED.

12 "INDEPENDENT COUNSEL." A PERSON APPOINTED BY THE SPECIAL
13 INDEPENDENT PROSECUTOR'S PANEL UPON THE REQUEST OF A SPECIAL
14 INVESTIGATIVE COUNSEL.

15 "PANEL." THE SPECIAL INDEPENDENT PROSECUTOR'S PANEL
16 ESTABLISHED UNDER THIS CHAPTER.

17 "SPECIAL INVESTIGATIVE COUNSEL." A PERSON APPOINTED BY THE
18 GENERAL COUNSEL TO CONDUCT A PRELIMINARY INVESTIGATION UNDER
19 THIS CHAPTER.

20 SUBCHAPTER B

21 GENERAL PROVISIONS

22 SEC.

23 9311. ORGANIZATION OF PANEL.

24 9312. PRELIMINARY INVESTIGATION.

25 9313. CONDUCT OF PRELIMINARY INVESTIGATION.

26 9314. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

27 9315. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

28 9316. CONTENTS OF APPLICATION.

29 9317. DISCLOSURE OF INFORMATION.

30 9318. LIMITATION ON JUDICIAL REVIEW.

1 9319. DUTIES OF PANEL.

2 § 9311. ORGANIZATION OF PANEL.

3 (A) COMPOSITION AND SELECTION.--THE SPECIAL INDEPENDENT
4 PROSECUTOR'S PANEL SHALL BE COMPOSED OF ONE JUDGE OF THE
5 COMMONWEALTH COURT AND TWO JUDGES, INCLUDING SENIOR JUDGES, OF
6 THE COURTS OF COMMON PLEAS OF THE COMMONWEALTH. THE MEMBERS OF
7 THE PANEL SHALL BE CHOSEN BY LOT. THE PROCEDURE SHALL BE
8 DETERMINED BY AND SUPERVISED BY THE COURT ADMINISTRATOR OF
9 PENNSYLVANIA IN THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA
10 COURTS. THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS SHALL
11 DISCLOSE TO THE PUBLIC THE MEMBERSHIP OF THE PANEL.

12 (B) TERM OF MEMBERS.--EACH MEMBER OF THE PANEL SHALL HOLD
13 OFFICE FOR A TERM OF THREE YEARS. JUDGES WHO ARE MEMBERS OF THE
14 PANEL AND ARE REQUIRED TO RETIRE UNDER SECTION 16 OF ARTICLE V
15 OF THE CONSTITUTION OF PENNSYLVANIA SHALL ALSO VACATE THEIR
16 POSITIONS ON THE PANEL UNLESS ASSIGNED UNDER CHAPTER 7 OF THE
17 RULES OF JUDICIAL ADMINISTRATION. A JUDGE WHO IS OTHERWISE
18 REMOVED OR SUSPENDED FROM OFFICE SHALL AUTOMATICALLY FORFEIT THE
19 POSITION HELD BY THAT JUDGE ON THE PANEL.

20 (C) VACANCIES.--ANY VACANCY IN THE PANEL SHALL BE FILLED
21 ONLY FOR THE REMAINDER OF THE THREE-YEAR PERIOD IN WHICH THE
22 VACANCY OCCURS AND IN THE SAME MANNER AS INITIAL ASSIGNMENTS TO
23 THE PANEL WERE MADE.

24 (D) DECISIONS BY MAJORITY VOTE.--ALL DECISIONS OF THE PANEL
25 SHALL BE BY MAJORITY VOTE OF THE MEMBERS.

26 (E) CLERK.--THE PROTHONOTARY OF COMMONWEALTH COURT SHALL
27 SERVE AS THE CLERK OF THE PANEL AND SHALL PROVIDE SUCH SERVICES
28 AS ARE NEEDED BY THE PANEL.

29 (F) RESTRICTION.--NO MEMBER OF THE PANEL WHO PARTICIPATED IN
30 A FUNCTION CONFERRED ON THE PANEL UNDER THIS CHAPTER INVOLVING

1 AN INDEPENDENT COUNSEL SHALL BE ELIGIBLE TO PARTICIPATE IN ANY
2 JUDICIAL PROCEEDING CONCERNING A MATTER WHICH INVOLVES THE
3 INDEPENDENT COUNSEL AND WHICH INVOLVES THE EXERCISE OF THE
4 INDEPENDENT COUNSEL'S OFFICIAL DUTIES, REGARDLESS OF WHETHER THE
5 INDEPENDENT COUNSEL IS STILL SERVING IN THAT OFFICE.

6 § 9312. PRELIMINARY INVESTIGATION.

7 (A) PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN
8 COVERED PERSONS.--THE GENERAL COUNSEL SHALL APPOINT A SPECIAL
9 INVESTIGATIVE COUNSEL TO CONDUCT A PRELIMINARY INVESTIGATION IN
10 ACCORDANCE WITH THIS CHAPTER WHENEVER THE GENERAL COUNSEL
11 RECEIVES INFORMATION SUFFICIENT TO CONSTITUTE GROUNDS TO
12 INVESTIGATE WHETHER ANY PERSON DESCRIBED IN SUBSECTION (C) MAY
13 HAVE COMMITTED ANY OF THE FOLLOWING:

14 (1) AN OFFENSE WHICH IS CLASSIFIED HIGHER THAN A
15 MISDEMEANOR OF THE SECOND DEGREE.

16 (2) AN OFFENSE WHICH IS CLASSIFIED HIGHER THAN A SUMMARY
17 OFFENSE AND WHICH INVOLVES A BREACH OF THE PUBLIC TRUST. THIS
18 PARAGRAPH INCLUDES A VIOLATION OF THE ACT OF JUNE 3, 1937
19 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA ELECTION CODE,
20 OR THE ACT OF OCTOBER 4, 1978 (P.L.883, NO.170), REFERRED TO
21 AS THE PUBLIC OFFICIAL AND EMPLOYEE ETHICS LAW.

22 (B) PRELIMINARY INVESTIGATION WITH RESPECT TO PERSONS NOT
23 LISTED IN SUBSECTION (C).--THE ATTORNEY GENERAL SHALL REQUEST
24 THE GENERAL COUNSEL TO APPOINT A SPECIAL INVESTIGATIVE COUNSEL
25 TO CONDUCT A PRELIMINARY INVESTIGATION UNDER THE JURISDICTION
26 ESTABLISHED OR CONFERRED UNDER SECTION 205(B) OF THE ACT OF
27 OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH
28 ATTORNEYS ACT, AND 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. IN ADDITION, THE
3 ATTORNEY GENERAL MAY REQUEST THE GENERAL COUNSEL TO APPOINT A
4 SPECIAL INVESTIGATIVE COUNSEL TO CONDUCT A PRELIMINARY
5 INVESTIGATION WHERE THE ATTORNEY GENERAL DETERMINES THAT AN
6 INVESTIGATION OR PROSECUTION OF THE PERSON, WITH RESPECT TO THE
7 INFORMATION RECEIVED, BY THE ATTORNEY GENERAL OR OTHER OFFICER
8 OF THE ATTORNEY GENERAL'S OFFICE MAY RESULT IN A PERSONAL,
9 FINANCIAL OR POLITICAL CONFLICT OF INTEREST.

10 (C) PERSONS TO WHOM SUBSECTION (A) APPLIES.--THE PERSONS
11 REFERRED TO IN SUBSECTION (A) ARE AS FOLLOWS:

12 (1) THE ATTORNEY GENERAL, ANY DEPUTY ATTORNEY GENERAL OR
13 ANY INDIVIDUAL WORKING IN THE ATTORNEY GENERAL'S OFFICE WHO
14 IS DEFINED AS A "PUBLIC EMPLOYEE" UNDER THE PUBLIC OFFICIAL
15 AND EMPLOYEE ETHICS LAW.

16 (2) ANY INDIVIDUAL WHO LEAVES ANY OFFICE OR POSITION
17 DESCRIBED IN PARAGRAPH (1) DURING THE INCUMBENCY OF THE
18 ATTORNEY GENERAL WITH OR UNDER WHOM SUCH INDIVIDUAL SERVED IN
19 THE OFFICE OR POSITION, PLUS ONE YEAR AFTER SUCH INCUMBENCY,
20 BUT IN NO EVENT LONGER THAN A PERIOD OF THREE YEARS AFTER THE
21 INDIVIDUAL LEAVES THE OFFICE OR POSITION.

22 (3) ANY INDIVIDUAL WHO HELD AN OFFICE OR POSITION
23 DESCRIBED IN PARAGRAPH (1) DURING THE INCUMBENCY OF ONE
24 ATTORNEY GENERAL AND WHO CONTINUED TO HOLD THE OFFICE OR
25 POSITION FOR NOT MORE THAN 90 DAYS INTO THE TERM OF THE NEXT
26 ATTORNEY GENERAL, DURING THE ONE-YEAR PERIOD AFTER THE
27 INDIVIDUAL LEAVES THE OFFICE OR POSITION.

28 (4) THE CHAIRMAN AND TREASURER OF THE PRINCIPAL CAMPAIGN
29 COMMITTEE SEEKING THE ELECTION OR REELECTION OF THE ATTORNEY
30 GENERAL, AND ANY OFFICER OF THAT COMMITTEE EXERCISING

1 AUTHORITY AT THE STATE LEVEL, DURING THE INCUMBENCY OF THE
2 ELECTED ATTORNEY GENERAL.

3 (D) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR
4 PRELIMINARY INVESTIGATION.--IN DETERMINING UNDER SUBSECTION (A)
5 WHETHER GROUNDS TO INVESTIGATE EXIST, THE GENERAL COUNSEL SHALL
6 CONSIDER ONLY THE SPECIFICITY OF THE INFORMATION RECEIVED AND
7 THE CREDIBILITY OF THE SOURCE OF THE INFORMATION. THE GENERAL
8 COUNSEL SHALL DETERMINE WHETHER GROUNDS TO INVESTIGATE EXIST NO
9 LATER THAN 30 DAYS AFTER THE INFORMATION IS FIRST RECEIVED. IF
10 WITHIN THAT 30-DAY PERIOD THE GENERAL COUNSEL DETERMINES THAT
11 THE INFORMATION IS NOT SPECIFIC OR IS NOT FROM A CREDIBLE
12 SOURCE, THEN THE GENERAL COUNSEL SHALL CLOSE THE MATTER. IF
13 WITHIN THAT 30-DAY PERIOD THE GENERAL COUNSEL DETERMINES THAT
14 THE INFORMATION IS SPECIFIC AND FROM A CREDIBLE SOURCE, THE
15 GENERAL COUNSEL SHALL, UPON MAKING THAT DETERMINATION, APPOINT A
16 SPECIAL INVESTIGATIVE COUNSEL TO COMMENCE A PRELIMINARY
17 INVESTIGATION WITH RESPECT TO THAT INFORMATION. IF THE GENERAL
18 COUNSEL IS UNABLE TO DETERMINE WITHIN THAT 30-DAY PERIOD WHETHER
19 THE INFORMATION IS SPECIFIC AND FROM A CREDIBLE SOURCE, THE
20 GENERAL COUNSEL SHALL AT THE END OF THAT 30-DAY PERIOD APPOINT A
21 SPECIAL INVESTIGATIVE COUNSEL TO COMMENCE A PRELIMINARY
22 INVESTIGATION WITH RESPECT TO THAT INFORMATION. IF A SPECIAL
23 INVESTIGATIVE COUNSEL IS APPOINTED, THE SPECIAL INVESTIGATIVE
24 COUNSEL MAY ONLY ACCEPT THE APPOINTMENT WHEN SUCH APPOINTMENT
25 WOULD NOT CONFLICT WITH THE RULES GOVERNING PROFESSIONAL
26 CONDUCT.

27 § 9313. CONDUCT OF PRELIMINARY INVESTIGATION.

28 (A) IN GENERAL.--A PRELIMINARY INVESTIGATION CONDUCTED UNDER
29 THIS CHAPTER SHALL BE OF MATTERS AS THE SPECIAL INVESTIGATIVE
30 COUNSEL CONSIDERS APPROPRIATE IN ORDER TO MAKE A DETERMINATION

1 UNDER SECTION 9314 (RELATING TO DETERMINATION THAT FURTHER
2 INVESTIGATION NOT WARRANTED) OR 9315 (RELATING TO DETERMINATION
3 THAT FURTHER INVESTIGATION IS WARRANTED) OF WHETHER FURTHER
4 INVESTIGATION IS WARRANTED WITH RESPECT TO EACH POTENTIAL
5 VIOLATION OR ALLEGATION OF A VIOLATION OF CRIMINAL LAW. THE
6 SPECIAL INVESTIGATIVE COUNSEL SHALL MAKE THE DETERMINATION NO
7 LATER THAN 90 DAYS AFTER THE PRELIMINARY INVESTIGATION IS
8 COMMENCED. THE SPECIAL INVESTIGATIVE COUNSEL SHALL PROMPTLY
9 NOTIFY THE PANEL OF THE DATE OF THE COMMENCEMENT OF THE
10 PRELIMINARY INVESTIGATION.

11 (B) LIMITED AUTHORITY OF SPECIAL INVESTIGATIVE COUNSEL.--

12 (1) IN CONDUCTING PRELIMINARY INVESTIGATIONS UNDER THIS
13 CHAPTER, THE SPECIAL INVESTIGATIVE COUNSEL SHALL HAVE NO
14 AUTHORITY TO CONVENE GRAND JURIES, PLEA BARGAIN, GRANT
15 IMMUNITY OR ISSUE SUBPOENAS.

16 (2) THE SPECIAL INVESTIGATIVE COUNSEL SHALL NOT BASE A
17 DETERMINATION UNDER THIS CHAPTER THAT INFORMATION WITH
18 RESPECT TO A VIOLATION OF CRIMINAL LAW BY A PERSON IS NOT
19 SPECIFIC AND FROM A CREDIBLE SOURCE UPON A DETERMINATION THAT
20 THE PERSON LACKED THE STATE OF MIND REQUIRED FOR THE
21 VIOLATION OF CRIMINAL LAW. THE SPECIAL INVESTIGATIVE COUNSEL
22 SHALL NOT BASE A DETERMINATION UNDER THIS CHAPTER THAT THERE
23 ARE NO REASONABLE GROUNDS TO BELIEVE THAT FURTHER
24 INVESTIGATION IS WARRANTED UPON A DETERMINATION THAT THE
25 PERSON LACKED THE STATE OF MIND REQUIRED FOR THE VIOLATION OF
26 CRIMINAL LAW INVOLVED UNLESS THERE IS CLEAR AND CONVINCING
27 EVIDENCE THAT THE PERSON LACKED THE REQUIRED STATE OF MIND.

28 (C) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.--THE
29 SPECIAL INVESTIGATIVE COUNSEL MAY APPLY TO THE PANEL FOR A
30 SINGLE EXTENSION, FOR A PERIOD OF NO MORE THAN 60 DAYS, OF THE

1 90-DAY PERIOD REFERRED TO IN SUBSECTION (A). THE PANEL MAY, UPON
2 A SHOWING OF GOOD CAUSE, GRANT THE EXTENSION.

3 § 9314. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

4 (A) NOTIFICATION OF PANEL.--IF THE SPECIAL INVESTIGATIVE
5 COUNSEL UPON COMPLETION OF A PRELIMINARY INVESTIGATION UNDER
6 THIS CHAPTER DETERMINES THAT THERE ARE NO REASONABLE GROUNDS TO
7 BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED, THE SPECIAL
8 INVESTIGATIVE COUNSEL SHALL PROMPTLY SO NOTIFY THE PANEL, AND
9 THE PANEL SHALL HAVE NO POWER TO APPOINT AN INDEPENDENT COUNSEL
10 WITH RESPECT TO THE MATTERS INVOLVED.

11 (B) FORM OF NOTIFICATION.--THE NOTIFICATION SHALL CONTAIN A
12 SUMMARY OF THE INFORMATION RECEIVED AND A SUMMARY OF THE RESULTS
13 OF THE PRELIMINARY INVESTIGATION. THE SUMMARY SHALL BE
14 CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE, EXCEPT THAT
15 THE PERSON WHO WAS THE SUBJECT OF THE INVESTIGATION MAY REQUEST
16 A COPY OF THE SUMMARY FROM THE PANEL.

17 § 9315. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

18 (A) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.--THE
19 SPECIAL INVESTIGATIVE COUNSEL SHALL APPLY TO THE PANEL FOR THE
20 APPOINTMENT OF AN INDEPENDENT COUNSEL IF:

21 (1) THE SPECIAL INVESTIGATIVE COUNSEL, UPON COMPLETION
22 OF A PRELIMINARY INVESTIGATION UNDER THIS CHAPTER, DETERMINES
23 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT FURTHER
24 INVESTIGATION IS WARRANTED; OR

25 (2) THE 90-DAY PERIOD REFERRED TO IN SECTION 9313(A)
26 (RELATING TO CONDUCT OF PRELIMINARY INVESTIGATION) AND ANY
27 EXTENSION GRANTED UNDER SECTION 9313(C) HAVE ELAPSED AND THE
28 SPECIAL INVESTIGATIVE COUNSEL HAS NOT FILED A NOTIFICATION
29 WITH THE PANEL UNDER SECTION 9314(A) (RELATING TO
30 DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED).

1 (B) RECEIPT OF ADDITIONAL INFORMATION.--IF, AFTER SUBMITTING
2 A NOTIFICATION UNDER SECTION 9314(A), THE SPECIAL INVESTIGATIVE
3 COUNSEL RECEIVES ADDITIONAL INFORMATION SUFFICIENT TO CONSTITUTE
4 GROUNDS TO INVESTIGATE THE MATTERS TO WHICH THE NOTIFICATION
5 RELATED, THE SPECIAL INVESTIGATIVE COUNSEL SHALL:

6 (1) CONDUCT AN ADDITIONAL PRELIMINARY INVESTIGATION AS
7 THE SPECIAL INVESTIGATIVE COUNSEL CONSIDERS APPROPRIATE FOR A
8 PERIOD OF NO MORE THAN 90 DAYS AFTER THE DATE ON WHICH THE
9 ADDITIONAL INFORMATION IS RECEIVED.

10 (2) OTHERWISE COMPLY WITH THE PROVISIONS OF THIS
11 SUBCHAPTER WITH RESPECT TO THE ADDITIONAL PRELIMINARY
12 INVESTIGATION TO THE SAME EXTENT AS ANY OTHER PRELIMINARY
13 INVESTIGATION UNDER THIS CHAPTER.

14 § 9316. CONTENTS OF APPLICATION.

15 ANY APPLICATION FOR THE APPOINTMENT OF AN INDEPENDENT COUNSEL
16 UNDER THIS CHAPTER SHALL CONTAIN SUFFICIENT INFORMATION TO
17 ASSIST THE PANEL IN SELECTING AN INDEPENDENT COUNSEL AND IN
18 DEFINING THAT INDEPENDENT COUNSEL'S PROSECUTORIAL JURISDICTION
19 SO THAT THE INDEPENDENT COUNSEL HAS ADEQUATE AUTHORITY TO FULLY
20 INVESTIGATE AND PROSECUTE THE SUBJECT MATTER AND ALL MATTERS
21 RELATED TO THAT SUBJECT MATTER.

22 § 9317. DISCLOSURE OF INFORMATION.

23 EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, NO OFFICER OR
24 EMPLOYEE OF THE OFFICE OF SPECIAL INVESTIGATIVE COUNSEL OR THE
25 OFFICE OF INDEPENDENT COUNSEL MAY, WITHOUT LEAVE OF THE PANEL,
26 DISCLOSE TO ANY INDIVIDUAL OUTSIDE THE OFFICE OF SPECIAL
27 INVESTIGATIVE COUNSEL OR OFFICE OF INDEPENDENT COUNSEL ANY
28 NOTIFICATION, APPLICATION OR ANY OTHER DOCUMENT, MATERIAL OR
29 MEMORANDUM SUPPLIED TO THE PANEL UNDER THIS CHAPTER. NOTHING IN
30 THIS CHAPTER SHALL BE CONSTRUED AS AUTHORIZING THE WITHHOLDING

1 OF INFORMATION FROM THE GENERAL ASSEMBLY.

2 § 9318. LIMITATION ON JUDICIAL REVIEW.

3 THE DETERMINATION OF THE SPECIAL INVESTIGATIVE COUNSEL UNDER
4 THIS CHAPTER TO APPLY TO THE PANEL FOR THE APPOINTMENT OF AN
5 INDEPENDENT COUNSEL SHALL NOT BE REVIEWABLE IN ANY COURT.

6 § 9319. DUTIES OF PANEL.

7 (A) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.--

8 (1) UPON RECEIPT OF AN APPLICATION, THE PANEL SHALL
9 APPOINT AN APPROPRIATE INDEPENDENT COUNSEL AND SHALL DEFINE
10 THAT INDEPENDENT COUNSEL'S PROSECUTORIAL JURISDICTION. THE
11 APPOINTMENT SHALL OCCUR NO LATER THAN 30 DAYS AFTER THE
12 RECEIPT OF THE APPLICATION.

13 (2) THE PANEL SHALL APPOINT AS INDEPENDENT COUNSEL AN
14 INDIVIDUAL WHO HAS APPROPRIATE EXPERIENCE AND WHO WILL
15 CONDUCT THE INVESTIGATION AND ANY PROSECUTION IN A PROMPT,
16 RESPONSIBLE AND COST-EFFECTIVE MANNER. THE PANEL SHALL SEEK
17 TO APPOINT AS INDEPENDENT COUNSEL AN INDIVIDUAL WHO WILL
18 SERVE TO THE EXTENT NECESSARY TO COMPLETE THE INVESTIGATION
19 AND ANY PROSECUTION WITHOUT UNDUE DELAY. THE PANEL MAY NOT
20 APPOINT AS AN INDEPENDENT COUNSEL ANY PERSON WHO HOLDS ANY
21 OFFICE OF PROFIT OR TRUST WITH THE COMMONWEALTH. NO PERSON
22 WHO IS SERVING AS A SPECIAL INVESTIGATIVE COUNSEL MAY BE
23 APPOINTED OR SERVE AS AN INDEPENDENT COUNSEL IN THE MATTER
24 FOR WHICH THEY HAD BEEN APPOINTED TO INVESTIGATE AS SPECIAL
25 INVESTIGATIVE COUNSEL. IF AN INDEPENDENT COUNSEL IS
26 APPOINTED, THE INDEPENDENT COUNSEL MAY ONLY ACCEPT THE
27 APPOINTMENT WHEN SUCH APPOINTMENT WOULD NOT CONFLICT WITH THE
28 RULES GOVERNING PROFESSIONAL CONDUCT.

29 (3) IN DEFINING THE INDEPENDENT COUNSEL'S PROSECUTORIAL
30 JURISDICTION, THE PANEL SHALL ASSURE THAT THE INDEPENDENT

1 COUNSEL HAS ADEQUATE AUTHORITY TO FULLY INVESTIGATE AND
2 PROSECUTE THE SUBJECT MATTER WITH RESPECT TO WHICH THE
3 SPECIAL INVESTIGATIVE COUNSEL HAS REQUESTED THE APPOINTMENT
4 OF THE INDEPENDENT COUNSEL AND ALL MATTERS RELATED TO THAT
5 SUBJECT MATTER. JURISDICTION SHALL ALSO INCLUDE THE AUTHORITY
6 TO INVESTIGATE AND PROSECUTE THE FOLLOWING OFFENSES WHICH MAY
7 ARISE OUT OF THE INVESTIGATION WITH RESPECT TO WHICH THE
8 SPECIAL INVESTIGATIVE COUNSEL'S REQUEST WAS MADE:

9 (I) AN OFFENSE CLASSIFIED HIGHER THAN A MISDEMEANOR
10 OF THE SECOND DEGREE.

11 (II) AN OFFENSE WHICH IS CLASSIFIED HIGHER THAN A
12 SUMMARY OFFENSE AND WHICH INVOLVES A BREACH OF THE PUBLIC
13 TRUST. THIS PARAGRAPH INCLUDES A VIOLATION OF THE ACT OF
14 JUNE 3, 1937 (P.L.1333, NO.320), KNOWN AS THE
15 PENNSYLVANIA ELECTION CODE, OR THE ACT OF OCTOBER 4, 1978
16 (P.L.883, NO.170), REFERRED TO AS THE PUBLIC OFFICIAL AND
17 EMPLOYEE ETHICS LAW.

18 (4) THE PANEL SHALL DISCLOSE THE IDENTITY OF THE
19 INDEPENDENT COUNSEL UPON APPOINTMENT.

20 (B) EXPANSION OF JURISDICTION.--

21 (1) THE PANEL UPON THE REQUEST OF THE GENERAL COUNSEL
22 MAY EXPAND THE PROSECUTORIAL JURISDICTION OF AN INDEPENDENT
23 COUNSEL. THE EXPANSION MAY BE IN LIEU OF THE APPOINTMENT OF
24 ANOTHER INDEPENDENT COUNSEL.

25 (2) IF THE INDEPENDENT COUNSEL DISCOVERS OR RECEIVES
26 INFORMATION ABOUT POSSIBLE VIOLATIONS OF CRIMINAL LAW BY
27 PERSONS AS PROVIDED IN SECTION 9312 (RELATING TO PRELIMINARY
28 INVESTIGATION) WHICH ARE NOT COVERED BY THE PROSECUTORIAL
29 JURISDICTION OF THE INDEPENDENT COUNSEL, THE INDEPENDENT
30 COUNSEL MAY SUBMIT THE INFORMATION TO THE GENERAL COUNSEL. IN

1 ACCORDANCE WITH THIS SUBCHAPTER, THE GENERAL COUNSEL SHALL
2 APPOINT A SPECIAL INVESTIGATIVE COUNSEL TO CONDUCT A
3 PRELIMINARY INVESTIGATION OF THE INFORMATION, EXCEPT THAT THE
4 PRELIMINARY INVESTIGATION SHALL NOT EXCEED 30 DAYS FROM THE
5 DATE THE INFORMATION IS RECEIVED. IN MAKING THE
6 DETERMINATIONS REQUIRED BY THIS SUBCHAPTER, THE SPECIAL
7 INVESTIGATIVE COUNSEL SHALL GIVE GREAT WEIGHT TO ANY
8 RECOMMENDATIONS OF THE INDEPENDENT COUNSEL.

9 (3) IF THE SPECIAL INVESTIGATIVE COUNSEL DETERMINES,
10 AFTER ACCORDING GREAT WEIGHT TO THE RECOMMENDATIONS OF THE
11 INDEPENDENT COUNSEL, THAT THERE ARE NO REASONABLE GROUNDS TO
12 BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED, THE SPECIAL
13 INVESTIGATIVE COUNSEL SHALL PROMPTLY SO NOTIFY THE PANEL, AND
14 THE PANEL SHALL HAVE NO POWER TO EXPAND THE JURISDICTION OF
15 THE INDEPENDENT COUNSEL OR TO APPOINT ANOTHER INDEPENDENT
16 COUNSEL WITH RESPECT TO THE MATTERS INVOLVED.

17 (4) THE PANEL SHALL EXPAND THE JURISDICTION OF THE
18 APPROPRIATE INDEPENDENT COUNSEL TO INCLUDE THE MATTERS
19 INVOLVED OR SHALL APPOINT ANOTHER INDEPENDENT COUNSEL TO
20 INVESTIGATE THE MATTERS IF:

21 (I) THE SPECIAL INVESTIGATIVE COUNSEL DETERMINES
22 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT FURTHER
23 INVESTIGATION IS WARRANTED; OR

24 (II) THE 30-DAY PERIOD REFERRED TO IN PARAGRAPH (2)
25 ELAPSES WITHOUT A NOTIFICATION TO THE PANEL THAT NO
26 FURTHER INVESTIGATION IS WARRANTED.

27 (5) IF THE INDEPENDENT COUNSEL DISCOVERS OR RECEIVES
28 INFORMATION ABOUT POSSIBLE VIOLATIONS OF CRIMINAL LAW BY
29 PERSONS OTHER THAN THOSE PROVIDED FOR IN SECTION 9312 AND
30 WHICH ARE NOT COVERED BY THE PROSECUTORIAL JURISDICTION OF

1 THE INDEPENDENT COUNSEL AND A REQUEST FOR EXPANSION UNDER
2 THIS SUBSECTION HAS NOT BEEN MADE BY THE GENERAL COUNSEL OR
3 THE REQUEST FOR EXPANSION UNDER THIS SUBSECTION HAS BEEN
4 DENIED BY THE PANEL, THE INDEPENDENT COUNSEL SHALL SUBMIT THE
5 INFORMATION TO THE APPROPRIATE LAW ENFORCEMENT AUTHORITY.

6 (C) RETURN FOR FURTHER EXPLANATION.--UPON RECEIPT OF A
7 NOTIFICATION UNDER THIS SUBCHAPTER THAT THERE ARE NO REASONABLE
8 GROUNDS TO BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED WITH
9 RESPECT TO INFORMATION RECEIVED UNDER THIS CHAPTER, THE PANEL
10 SHALL HAVE NO AUTHORITY TO OVERRULE THIS DETERMINATION BUT MAY
11 RETURN THE MATTER TO THE SPECIAL INVESTIGATIVE COUNSEL FOR
12 FURTHER EXPLANATION OF THE REASONS FOR THE DETERMINATION.

13 (D) VACANCIES.--IF A VACANCY IN OFFICE ARISES BY REASON OF
14 THE RESIGNATION, DEATH OR REMOVAL OF AN INDEPENDENT COUNSEL, THE
15 PANEL SHALL APPOINT AN INDEPENDENT COUNSEL TO COMPLETE THE WORK
16 OF THE INDEPENDENT COUNSEL WHOSE RESIGNATION, DEATH OR REMOVAL
17 CAUSED THE VACANCY, EXCEPT THAT, IN THE CASE OF A VACANCY
18 ARISING BY REASON OF THE REMOVAL OF AN INDEPENDENT COUNSEL, THE
19 PANEL MAY APPOINT AN ACTING INDEPENDENT COUNSEL TO SERVE UNTIL
20 ANY JUDICIAL REVIEW OF THE REMOVAL IS COMPLETED.

21 SUBCHAPTER C

22 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

23 SEC.

24 9331. AUTHORITIES.

25 9332. COMPENSATION AND TRAVEL EXPENSES.

26 9333. ADDITIONAL PERSONNEL.

27 9334. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

28 9335. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.

29 9336. DISMISSAL OF MATTERS.

30 9337. REPORTS BY INDEPENDENT COUNSEL.

1 9338. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.
2 9339. STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL,
3 PERSONS SERVING IN OFFICE OF INDEPENDENT COUNSEL AND
4 THEIR LAW FIRMS.
5 9340. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.
6 9341. COST CONTROLS AND ADMINISTRATIVE SUPPORT.
7 9342. LEGISLATIVE OVERSIGHT.
8 9343. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF OFFICE.
9 9344. AUDITS.
10 9345. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.
11 9346. VENUE.
12 § 9331. AUTHORITIES.

13 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INDEPENDENT
14 COUNSEL APPOINTED UNDER THIS CHAPTER SHALL HAVE, WITH RESPECT TO
15 ALL MATTERS IN THE INDEPENDENT COUNSEL'S PROSECUTORIAL
16 JURISDICTION ESTABLISHED UNDER THIS CHAPTER, FULL POWER AND
17 INDEPENDENT AUTHORITY TO EXERCISE ALL INVESTIGATIVE AND
18 PROSECUTORIAL FUNCTIONS AND POWERS OF THE OFFICE OF ATTORNEY
19 GENERAL, THE ATTORNEY GENERAL AND ANY OTHER OFFICER OR EMPLOYEE
20 OF THE OFFICE OF ATTORNEY GENERAL. INVESTIGATIVE AND
21 PROSECUTORIAL FUNCTIONS AND POWERS SHALL INCLUDE, BUT ARE NOT
22 LIMITED TO:

23 (1) CONDUCTING PROCEEDINGS BEFORE GRAND JURIES AND OTHER
24 INVESTIGATIONS.

25 (2) PARTICIPATING IN COURT PROCEEDINGS AND ENGAGING IN
26 ANY LITIGATION, INCLUDING CIVIL AND CRIMINAL MATTERS, THAT
27 THE INDEPENDENT COUNSEL CONSIDERS NECESSARY.

28 (3) APPEALING ANY DECISION OF A COURT IN ANY CASE OR
29 PROCEEDING IN WHICH THE INDEPENDENT COUNSEL PARTICIPATES IN
30 AN OFFICIAL CAPACITY.

1 (4) REVIEWING ALL DOCUMENTARY EVIDENCE AVAILABLE FROM
2 ANY SOURCE.

3 (5) DETERMINING WHETHER TO CONTEST THE ASSERTION OF ANY
4 TESTIMONIAL PRIVILEGE.

5 (6) RECEIVING APPROPRIATE SECURITY CLEARANCES AND, IF
6 NECESSARY, CONTESTING IN COURT, INCLUDING, WHERE APPROPRIATE,
7 PARTICIPATING IN AN IN CAMERA PROCEEDING, ANY CLAIM OF
8 PRIVILEGE OR ATTEMPT TO WITHHOLD EVIDENCE ON GROUNDS OF
9 SECURITY.

10 (7) MAKING APPLICATIONS TO ANY STATE COURT FOR A GRANT
11 OF IMMUNITY TO ANY WITNESS, CONSISTENT WITH APPLICABLE
12 STATUTORY REQUIREMENTS, OR FOR WARRANTS, SUBPOENAS OR OTHER
13 COURT ORDERS AND EXERCISING THE AUTHORITY VESTED IN THE
14 ATTORNEY GENERAL OR A DISTRICT ATTORNEY.

15 (8) INSPECTING, OBTAINING OR USING THE ORIGINAL OR A
16 COPY OF ANY TAX RETURN IN ACCORDANCE WITH APPLICABLE STATUTES
17 AND REGULATIONS.

18 (9) INITIATING AND CONDUCTING PROSECUTIONS IN ANY COURT
19 OF COMPETENT JURISDICTION, FRAMING AND SIGNING INDICTMENTS,
20 FILING INFORMATION AND HANDLING ALL ASPECTS OF ANY CASE IN
21 THE NAME OF THE COMMONWEALTH.

22 (10) CONSULTING WITH THE DISTRICT ATTORNEY FOR THE
23 COUNTY IN WHICH ANY VIOLATION OF LAW WITH RESPECT TO WHICH
24 THE INDEPENDENT COUNSEL IS APPOINTED WAS ALLEGED TO HAVE
25 OCCURRED.

26 § 9332. COMPENSATION AND TRAVEL EXPENSES.

27 AN INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER SHALL
28 RECEIVE COMPENSATION AT THE PER DIEM RATE EQUAL TO THE ANNUAL
29 RATE OF BASIC PAY PAYABLE TO THE ATTORNEY GENERAL. AN
30 INDEPENDENT COUNSEL AND PERSONS APPOINTED UNDER SECTION 9333

1 (RELATING TO ADDITIONAL PERSONNEL) SHALL BE ENTITLED TO THE
2 PAYMENT OF TRAVEL EXPENSES.

3 § 9333. ADDITIONAL PERSONNEL.

4 FOR THE PURPOSES OF CARRYING OUT THE DUTIES OF THE OFFICE OF
5 INDEPENDENT COUNSEL, THE INDEPENDENT COUNSEL MAY APPOINT, FIX
6 THE COMPENSATION AND ASSIGN THE DUTIES OF THE EMPLOYEES THE
7 INDEPENDENT COUNSEL CONSIDERS NECESSARY, INCLUDING, BUT NOT
8 LIMITED TO, INVESTIGATORS, ATTORNEYS AND NECESSARY EXPERTS TO
9 ASSIST WITH THE CRIMINAL INVESTIGATION. THE POSITIONS OF THESE
10 EMPLOYEES ARE EXEMPTED FROM THE COMPETITIVE SERVICE. EMPLOYEES
11 SHALL BE COMPENSATED AT LEVELS NOT TO EXCEED THOSE PAYABLE FOR
12 COMPARABLE POSITIONS IN THE OFFICE OF ATTORNEY GENERAL.

13 § 9334. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

14 (A) CARRYING OUT FUNCTIONS.--AN INDEPENDENT COUNSEL MAY
15 REQUEST ASSISTANCE FROM THE PENNSYLVANIA STATE POLICE IN
16 CARRYING OUT THE FUNCTIONS OF THE INDEPENDENT COUNSEL, AND THE
17 PENNSYLVANIA STATE POLICE SHALL PROVIDE THAT ASSISTANCE, WHICH
18 MAY INCLUDE THE USE OF THE RESOURCES AND PERSONNEL NECESSARY TO
19 PERFORM THE INDEPENDENT COUNSEL'S DUTIES.

20 (B) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT
21 COUNSEL.--UPON THE REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY
22 SHALL APPROPRIATE THE NECESSARY FUNDS TO THE STATE TREASURER FOR
23 THE USE AND OPERATION IN EXECUTING THE DUTIES AND
24 RESPONSIBILITIES OF THE POSITION OF INDEPENDENT COUNSEL. UPON
25 THE REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY SHALL
26 APPROPRIATE THE NECESSARY FUNDS TO THE PENNSYLVANIA STATE POLICE
27 FOR COSTS INCURRED WHEN RENDERING ASSISTANCE TO THE INDEPENDENT
28 COUNSEL AS PROVIDED FOR UNDER SUBSECTION (A). THE STATE
29 TREASURER SHALL SUBMIT TO THE GENERAL ASSEMBLY, NO LATER THAN 30
30 DAYS AFTER THE END OF EACH FISCAL YEAR, A REPORT ON AMOUNTS PAID

1 DURING THAT FISCAL YEAR FOR EXPENSES OF INVESTIGATIONS AND
2 PROSECUTIONS BY INDEPENDENT COUNSEL. EACH REPORT SHALL INCLUDE A
3 STATEMENT OF ALL PAYMENTS MADE FOR ACTIVITIES OF INDEPENDENT
4 COUNSEL.

5 § 9335. 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 § 9336. 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 § 9337. 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 9343(B) (RELATING TO REMOVAL OF
30 INDEPENDENT COUNSEL AND TERMINATION OF OFFICE), FILE A FINAL

1 REPORT WITH THE PANEL, SETTING FORTH FULLY AND COMPLETELY A
2 DESCRIPTION OF ALL PROSECUTIONS. ALL OTHER INFORMATION SHALL
3 BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE.

4 (B) DISCLOSURE OF INFORMATION IN REPORTS.--THE PANEL MAY
5 RELEASE TO THE GENERAL ASSEMBLY, THE GOVERNOR, THE STATE
6 TREASURER, THE PUBLIC OR ANY APPROPRIATE PERSON THE PORTIONS OF
7 A REPORT MADE UNDER THIS SECTION AS THE PANEL CONSIDERS
8 APPROPRIATE. THE PANEL SHALL MAKE ANY ORDERS AS ARE APPROPRIATE
9 TO PROTECT THE RIGHTS OF ANY INDIVIDUAL NAMED IN THE REPORT AND
10 TO PREVENT UNDUE INTERFERENCE WITH ANY PENDING PROSECUTION. THE
11 PANEL MAY MAKE ANY PORTION OF A FINAL REPORT FILED UNDER
12 SUBSECTION (A) (2) AVAILABLE TO ANY INDIVIDUAL NAMED IN THE
13 REPORT FOR THE PURPOSES OF RECEIVING WITHIN A TIME LIMIT SET BY
14 THE PANEL ANY COMMENTS OR FACTUAL INFORMATION THAT THE
15 INDIVIDUAL MAY SUBMIT. THE COMMENTS AND FACTUAL INFORMATION, IN
16 WHOLE OR IN PART, MAY IN THE DISCRETION OF THE PANEL BE INCLUDED
17 AS AN APPENDIX TO THE FINAL REPORT.

18 § 9338. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.

19 EACH INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER AND THE
20 PERSONS APPOINTED BY THAT INDEPENDENT COUNSEL UNDER SECTION 9333
21 (RELATING TO ADDITIONAL PERSONNEL) ARE SEPARATE FROM AND
22 INDEPENDENT OF THE OFFICE OF ATTORNEY GENERAL.

23 § 9339. STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL,
24 PERSONS SERVING IN OFFICE OF INDEPENDENT COUNSEL AND
25 THEIR LAW FIRMS.

26 (A) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND
27 APPOINTEES ARE SERVING.--DURING THE PERIOD IN WHICH AN
28 INDEPENDENT COUNSEL IS SERVING UNDER THIS CHAPTER, THE
29 INDEPENDENT COUNSEL AND ANY PERSON ASSOCIATED WITH A FIRM WITH
30 WHICH THE INDEPENDENT COUNSEL IS ASSOCIATED MAY NOT REPRESENT IN

1 ANY MATTER ANY PERSON INVOLVED IN ANY INVESTIGATION OR
2 PROSECUTION UNDER THIS CHAPTER. DURING THE PERIOD IN WHICH ANY
3 PERSON APPOINTED BY AN INDEPENDENT COUNSEL UNDER SECTION 9333
4 (RELATING TO ADDITIONAL PERSONNEL) IS SERVING IN THE OFFICE OF
5 INDEPENDENT COUNSEL, THE PERSON MAY NOT REPRESENT IN ANY MATTER
6 ANY PERSON INVOLVED IN ANY INVESTIGATION OR PROSECUTION UNDER
7 THIS CHAPTER.

8 (B) POSTEMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND
9 APPOINTEES.--

10 (1) EACH INDEPENDENT COUNSEL AND EACH PERSON APPOINTED
11 BY THAT INDEPENDENT COUNSEL UNDER SECTION 9333 MAY NOT FOR
12 THREE YEARS FOLLOWING THE TERMINATION OF SERVICE UNDER THIS
13 CHAPTER OF THAT INDEPENDENT COUNSEL OR APPOINTED PERSON, AS
14 THE CASE MAY BE, REPRESENT ANY PERSON IN ANY MATTER IF THAT
15 INDIVIDUAL WAS THE SUBJECT OF AN INVESTIGATION OR PROSECUTION
16 CONDUCTED BY THAT INDEPENDENT COUNSEL UNDER THIS CHAPTER.

17 (2) EACH INDEPENDENT COUNSEL AND EACH PERSON APPOINTED
18 BY THAT INDEPENDENT COUNSEL UNDER SECTION 9333 MAY NOT FOR
19 ONE YEAR FOLLOWING THE TERMINATION OF SERVICE UNDER THIS
20 CHAPTER OF THAT INDEPENDENT COUNSEL OR APPOINTED PERSON, AS
21 THE CASE MAY BE, REPRESENT ANY PERSON IN ANY MATTER INVOLVING
22 ANY INVESTIGATION OR PROSECUTION UNDER THIS CHAPTER.

23 (C) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF
24 INDEPENDENT COUNSEL.--ANY PERSON WHO IS ASSOCIATED WITH A FIRM
25 WITH WHICH AN INDEPENDENT COUNSEL IS ASSOCIATED OR BECOMES
26 ASSOCIATED AFTER TERMINATION OF SERVICE OF THAT INDEPENDENT
27 COUNSEL UNDER THIS CHAPTER MAY NOT FOR ONE YEAR FOLLOWING THE
28 TERMINATION REPRESENT ANY PERSON IN ANY MATTER INVOLVING ANY
29 INVESTIGATION OR PROSECUTION UNDER THIS CHAPTER.

30 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING

1 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
2 SUBSECTION:

3 "ASSOCIATED WITH A FIRM." A PERSON WHO IS AN OFFICER,
4 DIRECTOR, PARTNER OR OTHER MEMBER OR EMPLOYEE OF A LAW FIRM.

5 "FIRM." A LAW FIRM, WHETHER ORGANIZED AS A PARTNERSHIP OR
6 CORPORATION.

7 § 9340. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.

8 (A) TRANSFER OF RECORDS.--UPON TERMINATION OF THE OFFICE OF
9 INDEPENDENT COUNSEL, THAT INDEPENDENT COUNSEL SHALL TRANSFER TO
10 THE BUREAU OF ARCHIVES AND HISTORY OF THE PENNSYLVANIA
11 HISTORICAL AND MUSEUM COMMISSION ALL RECORDS WHICH HAVE BEEN
12 CREATED OR RECEIVED BY THAT OFFICE. BEFORE THIS TRANSFER, THE
13 INDEPENDENT COUNSEL SHALL CLEARLY IDENTIFY WHICH OF THESE
14 RECORDS ARE SUBJECT TO THE PENNSYLVANIA RULES OF CRIMINAL
15 PROCEDURE AS GRAND JURY MATERIALS.

16 (B) MAINTENANCE, USE AND DISPOSAL OF RECORDS.--RECORDS
17 TRANSFERRED TO THE BUREAU OF ARCHIVES AND HISTORY UNDER THIS
18 SECTION SHALL BE MAINTAINED, USED AND DISPOSED OF AS PROVIDED BY
19 LAW.

20 § 9341. COST CONTROLS AND ADMINISTRATIVE SUPPORT.

21 (A) COST CONTROLS.--AN INDEPENDENT COUNSEL SHALL:

22 (1) CONDUCT ALL ACTIVITIES WITH DUE REGARD FOR EXPENSE.

23 (2) AUTHORIZE ONLY REASONABLE AND LAWFUL EXPENDITURES.

24 (3) PROMPTLY UPON TAKING OFFICE ASSIGN TO A SPECIFIC
25 EMPLOYEE THE DUTY OF CERTIFYING THAT EXPENDITURES OF THE
26 INDEPENDENT COUNSEL ARE REASONABLE AND MADE IN ACCORDANCE
27 WITH LAW.

28 (B) OFFICE OF ADMINISTRATION POLICIES.--AN INDEPENDENT
29 COUNSEL SHALL COMPLY WITH THE ESTABLISHED POLICIES OF THE OFFICE
30 OF ADMINISTRATION OF THE GOVERNOR RESPECTING EXPENDITURES OF

1 FUNDS, EXCEPT TO THE EXTENT THAT COMPLIANCE WOULD BE
2 INCONSISTENT WITH THE PURPOSES OF THIS CHAPTER.

3 § 9342. LEGISLATIVE OVERSIGHT.

4 (A) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.--AN
5 INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER SHALL SUBMIT TO
6 THE GENERAL ASSEMBLY A REPORT DETAILING ALL MONEYS EXPENDED AS
7 REQUIRED UNDER SECTION 9337(A)(1) (RELATING TO REPORTS BY
8 INDEPENDENT COUNSEL). IN ADDITION, THE INDEPENDENT COUNSEL SHALL
9 SUBMIT ANNUALLY A REPORT ON THE ACTIVITIES OF THE INDEPENDENT
10 COUNSEL, INCLUDING A DESCRIPTION OF THE PROGRESS OF ANY
11 INVESTIGATION OR PROSECUTION CONDUCTED BY THE INDEPENDENT
12 COUNSEL. THE REPORT MAY OMIT ANY MATTER THAT IN THE JUDGMENT OF
13 THE INDEPENDENT COUNSEL SHOULD BE KEPT CONFIDENTIAL BUT SHALL
14 PROVIDE INFORMATION ADEQUATE TO JUSTIFY THE EXPENDITURES THAT
15 THE OFFICE OF THE INDEPENDENT COUNSEL HAS MADE.

16 (B) INFORMATION RELATING TO IMPEACHMENT.--AN INDEPENDENT
17 COUNSEL SHALL ADVISE THE HOUSE OF REPRESENTATIVES OF ANY
18 SUBSTANTIAL AND CREDIBLE INFORMATION WHICH THE INDEPENDENT
19 COUNSEL RECEIVES IN CARRYING OUT THE INDEPENDENT COUNSEL'S
20 RESPONSIBILITIES UNDER THIS CHAPTER THAT MAY CONSTITUTE GROUNDS
21 FOR AN IMPEACHMENT. NOTHING IN THIS CHAPTER SHALL PREVENT THE
22 GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FROM OBTAINING
23 INFORMATION IN THE COURSE OF AN IMPEACHMENT PROCEEDING.

24 § 9343. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF
25 OFFICE.

26 (A) REMOVAL, REPORT ON REMOVAL AND TERMINATION.--

27 (1) AN INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER
28 MAY BE REMOVED FROM OFFICE ONLY BY THE PERSONAL ACTION OF THE
29 GENERAL COUNSEL AND ONLY FOR GOOD CAUSE, PHYSICAL DISABILITY,
30 MENTAL INCAPACITY OR ANY OTHER CONDITION THAT SUBSTANTIALLY

1 IMPAIRS THE PERFORMANCE OF THE INDEPENDENT COUNSEL'S DUTIES.
2 FOR PURPOSES OF THIS PARAGRAPH, THE TERM "GOOD CAUSE"
3 INCLUDES, BUT IS NOT LIMITED TO, VIOLATIONS OF ANY ETHICAL
4 RULES GOVERNING THE INDEPENDENT COUNSEL, THE ATTORNEY GENERAL
5 OR DISTRICT ATTORNEYS.

6 (2) IF AN INDEPENDENT COUNSEL IS REMOVED FROM OFFICE,
7 THE GENERAL COUNSEL SHALL PROMPTLY SUBMIT TO THE PANEL, THE
8 JUDICIARY COMMITTEE OF THE SENATE AND THE JUDICIARY COMMITTEE
9 OF THE HOUSE OF REPRESENTATIVES A REPORT SPECIFYING THE FACTS
10 FOUND AND THE ULTIMATE GROUNDS FOR THE REMOVAL. THE
11 COMMITTEES MAY MAKE AVAILABLE TO THE PUBLIC THE REPORT,
12 EXCEPT THAT EACH COMMITTEE MAY, IF NECESSARY TO PROTECT THE
13 RIGHTS OF ANY INDIVIDUAL NAMED IN THE REPORT OR TO PREVENT
14 UNDUE INTERFERENCE WITH ANY PENDING PROSECUTION, POSTPONE OR
15 REFRAIN FROM PUBLISHING ANY OR ALL OF THE REPORT. THE PANEL
16 MAY RELEASE ANY OR ALL OF THE REPORT IN ACCORDANCE WITH
17 SECTION 9337(B) (RELATING TO REPORTS BY INDEPENDENT COUNSEL).

18 (3) AN INDEPENDENT COUNSEL REMOVED FROM OFFICE MAY
19 OBTAIN JUDICIAL REVIEW OF THE REMOVAL IN A CIVIL ACTION
20 COMMENCED IN THE COMMONWEALTH COURT. THE INDEPENDENT COUNSEL
21 MAY BE REINSTATED OR GRANTED OTHER APPROPRIATE RELIEF BY
22 ORDER OF THE COMMONWEALTH COURT. A MEMBER OF THE PANEL MAY
23 NOT HEAR OR DETERMINE ANY SUCH CIVIL ACTION OR ANY APPEAL OF
24 A DECISION IN ANY SUCH CIVIL ACTION.

25 (B) TERMINATION OF OFFICE.--

26 (1) AN OFFICE OF INDEPENDENT COUNSEL SHALL TERMINATE
27 WHEN THE INDEPENDENT COUNSEL:

28 (I) NOTIFIES THE PANEL THAT THE INVESTIGATION OF ALL
29 MATTERS WITHIN THE PROSECUTORIAL JURISDICTION OF THE
30 INDEPENDENT COUNSEL OR ACCEPTED BY THE INDEPENDENT

1 COUNSEL, AND ANY RESULTING PROSECUTIONS, HAVE BEEN
2 COMPLETED; AND

3 (II) FILES A FINAL REPORT IN COMPLIANCE WITH SECTION
4 9337.

5 (2) THE PANEL SHALL DETERMINE ON ITS OWN MOTION WHETHER
6 TERMINATION IS APPROPRIATE UNDER THIS SUBSECTION NO LATER
7 THAN TWO YEARS AFTER THE APPOINTMENT OF AN INDEPENDENT
8 COUNSEL OR THE REPORTED EXPENDITURES OF THE INDEPENDENT
9 COUNSEL HAVE REACHED \$2,000,000, WHICHEVER OCCURS FIRST, AND
10 AT THE END OF EACH SUCCEEDING ONE-YEAR PERIOD.

11 § 9344. AUDITS.

12 BY DECEMBER 31 OF EACH YEAR, AN INDEPENDENT COUNSEL SHALL
13 PREPARE A STATEMENT OF EXPENDITURES FOR THE FISCAL YEAR THAT
14 ENDED ON THE IMMEDIATELY PRECEDING JUNE 30. AN INDEPENDENT
15 COUNSEL WHOSE OFFICE IS TERMINATED PRIOR TO THE END OF THE
16 FISCAL YEAR SHALL PREPARE A STATEMENT OF EXPENDITURES WITHIN 90
17 DAYS OF THE DATE ON WHICH THE OFFICE IS TERMINATED. THE AUDITOR
18 GENERAL SHALL AUDIT EACH STATEMENT AND REPORT THE RESULTS OF
19 EACH AUDIT TO THE APPROPRIATE COMMITTEES OF THE GENERAL ASSEMBLY
20 NO LATER THAN MARCH 31 OF THE YEAR FOLLOWING THE SUBMISSION OF
21 THE STATEMENT.

22 § 9345. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.

23 WHENEVER A MATTER IS IN THE PROSECUTORIAL JURISDICTION OF AN
24 INDEPENDENT COUNSEL OR HAS BEEN ACCEPTED BY AN INDEPENDENT
25 COUNSEL UNDER SECTION 9335 (RELATING TO REFERRAL OF OTHER
26 MATTERS TO INDEPENDENT COUNSEL), THE OFFICE OF ATTORNEY GENERAL,
27 THE ATTORNEY GENERAL, ALL OTHER OFFICERS AND EMPLOYEES OF THE
28 OFFICE OF ATTORNEY GENERAL AND ANY DISTRICT ATTORNEY SHALL
29 SUSPEND ALL INVESTIGATIONS AND PROCEEDINGS REGARDING THAT MATTER
30 AND SHALL TURN OVER TO THE INDEPENDENT COUNSEL ALL MATERIALS,

1 FILES AND OTHER DATA RELATING TO THAT MATTER.

2 § 9346. VENUE.

3 THE PROPER VENUE FOR ALL PROSECUTIONS CONDUCTED BY THE
4 INDEPENDENT COUNSEL SHALL BE DETERMINED IN ACCORDANCE WITH THE
5 PENNSYLVANIA RULES OF CRIMINAL PROCEDURE. FOR THE PURPOSES OF
6 CONVENIENCE AND FAIRNESS, THE PANEL MAY, HOWEVER, SET THE VENUE
7 IN ANY OTHER COUNTY ON ITS OWN MOTION OR AT THE REQUEST OF THE
8 INDEPENDENT COUNSEL OR ON PETITION OF THE DEFENDANT.

9 SUBCHAPTER D

10 MISCELLANEOUS PROVISIONS

11 SEC.

12 9351. SEVERABILITY OF CHAPTER.

13 9352. EXPIRATION OF CHAPTER.

14 § 9351. SEVERABILITY OF CHAPTER.

15 THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE. IF ANY
16 PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY PERSON OR
17 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
18 OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER WHICH CAN BE
19 GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

20 § 9352. EXPIRATION OF CHAPTER.

21 THIS CHAPTER SHALL EXPIRE FIVE YEARS AFTER THE DATE OF THE
22 ENACTMENT OF THIS CHAPTER, EXCEPT WITH RESPECT TO ANY MATTERS
23 PENDING BEFORE AN INDEPENDENT COUNSEL THAT IN THE JUDGMENT OF
24 THE INDEPENDENT COUNSEL REQUIRE CONTINUATION. MATTERS SHALL BE
25 CONTINUED UNTIL THE INDEPENDENT COUNSEL DETERMINES THE MATTERS
26 ARE COMPLETED.]

27 SECTION 3. TITLE 18 IS AMENDED BY ADDING A CHAPTER TO READ:

28 CHAPTER 95

29 INDEPENDENT COUNSEL

30 SUBCHAPTER

- 1 A. PRELIMINARY PROVISIONS
- 2 B. GENERAL PROVISIONS
- 3 C. AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

4 SUBCHAPTER A

5 PRELIMINARY PROVISIONS

6 SEC.

7 9501. SCOPE OF CHAPTER.

8 9502. DEFINITIONS.

9 9503. ADMINISTRATIVE EXPENSES.

10 § 9501. SCOPE OF CHAPTER.

11 THIS CHAPTER RELATES TO INDEPENDENT COUNSEL AUTHORIZATION.

12 § 9502. DEFINITIONS.

13 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
14 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
15 CONTEXT CLEARLY INDICATES OTHERWISE:

16 "GROUNDS TO INVESTIGATE." INFORMATION WHICH WOULD LEAD A
17 REASONABLE PERSON TO SUSPECT THAT A CRIME IS BEING OR HAS BEEN
18 COMMITTED.

19 "INDEPENDENT COUNSEL." A PERSON APPOINTED BY THE PANEL UPON
20 THE REQUEST OF A SPECIAL INVESTIGATIVE COUNSEL.

21 "PANEL." THE SPECIAL INDEPENDENT PROSECUTOR'S PANEL
22 ESTABLISHED UNDER THIS CHAPTER.

23 "REQUESTING JUDGE." A JUDGE OF A COURT OF COMMON PLEAS, OR A
24 JUDGE OF AN INTERMEDIATE COURT SITTING IN THE COURT'S ORIGINAL
25 JURISDICTION, WHO APPLIES FOR THE APPOINTMENT OF A SPECIAL
26 INVESTIGATIVE COUNSEL TO INVESTIGATE A CONTEMPT OF COURT.

27 "SPECIAL INVESTIGATIVE COUNSEL." A PERSON APPOINTED BY THE
28 PANEL TO CONDUCT A PRELIMINARY INVESTIGATION UNDER THIS CHAPTER.

29 § 9503. ADMINISTRATIVE EXPENSES.

30 ALL EXPENSES ATTRIBUTABLE TO THE APPOINTMENT OF EITHER A

1 SPECIAL INVESTIGATIVE COUNSEL OR AN INDEPENDENT COUNSEL SHALL BE
2 PAID FROM THE ANNUAL APPROPRIATION FOR THE OFFICE OF ATTORNEY
3 GENERAL'S GENERAL GOVERNMENT OPERATIONS.

4 SUBCHAPTER B

5 GENERAL PROVISIONS

6 SEC.

7 9511. ORGANIZATION OF PANEL.

8 9512. PRELIMINARY INVESTIGATION.

9 9513. CONDUCT OF PRELIMINARY INVESTIGATION.

10 9514. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

11 9515. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

12 9516. CONTENTS OF APPLICATION.

13 9517. DUTIES OF PANEL.

14 9518. DISCLOSURE OF INFORMATION.

15 § 9511. ORGANIZATION OF PANEL.

16 (A) COMPOSITION AND SELECTION.--THE SPECIAL INDEPENDENT
17 PROSECUTOR'S PANEL SHALL BE COMPOSED OF ONE JUDGE OF THE
18 SUPERIOR COURT AND TWO JUDGES, WHICH MAY INCLUDE SENIOR JUDGES,
19 OF THE COURTS OF COMMON PLEAS OF THE COMMONWEALTH. THE MEMBERS
20 OF THE PANEL SHALL BE CHOSEN BY LOT. THE PROCEDURE SHALL BE
21 DETERMINED AND SUPERVISED BY THE COURT ADMINISTRATOR OF
22 PENNSYLVANIA IN THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA
23 COURTS. THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS SHALL
24 DISCLOSE TO THE PUBLIC THE MEMBERSHIP OF THE PANEL AND PUBLISH
25 THE MEMBERSHIP ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE AND
26 IN THE PENNSYLVANIA BULLETIN.

27 (B) TERM OF MEMBERS.--EACH MEMBER OF THE PANEL SHALL HOLD
28 OFFICE FOR A TERM OF THREE YEARS. JUDGES WHO ARE MEMBERS OF THE
29 PANEL AND ARE REQUIRED TO RETIRE UNDER SECTION 16 OF ARTICLE V
30 OF THE CONSTITUTION OF PENNSYLVANIA SHALL ALSO VACATE THEIR

1 POSITIONS ON THE PANEL UNLESS ASSIGNED UNDER CHAPTER 7 OF THE
2 RULES OF JUDICIAL ADMINISTRATION. A JUDGE WHO IS OTHERWISE
3 REMOVED OR SUSPENDED FROM OFFICE SHALL AUTOMATICALLY FORFEIT THE
4 POSITION HELD BY THAT JUDGE ON THE PANEL.

5 (C) VACANCIES.--ANY VACANCY IN THE PANEL SHALL BE FILLED
6 ONLY FOR THE REMAINDER OF THE THREE-YEAR PERIOD IN WHICH THE
7 VACANCY OCCURS AND IN THE SAME MANNER AS INITIAL ASSIGNMENTS TO
8 THE PANEL WERE MADE.

9 (D) DECISIONS BY MAJORITY VOTE.--ALL DECISIONS OF THE PANEL
10 SHALL BE BY MAJORITY VOTE OF THE MEMBERS.

11 (E) CLERK.--THE PROTHONOTARY OF THE SUPERIOR COURT SHALL
12 SERVE AS THE CLERK OF THE PANEL AND SHALL PROVIDE SERVICES AS
13 ARE NEEDED BY THE PANEL.

14 (F) RESTRICTION.--A MEMBER OF THE PANEL WHO PARTICIPATED IN
15 A FUNCTION CONFERRED ON THE PANEL UNDER THIS CHAPTER INVOLVING
16 AN INDEPENDENT COUNSEL SHALL NOT BE ELIGIBLE TO PARTICIPATE IN
17 ANY JUDICIAL OR DISCIPLINARY PROCEEDING CONCERNING A MATTER
18 WHICH INVOLVES THE INDEPENDENT COUNSEL AND WHICH INVOLVES THE
19 EXERCISE OF THE INDEPENDENT COUNSEL'S OFFICIAL DUTIES,
20 NOTWITHSTANDING WHETHER THE INDEPENDENT COUNSEL IS STILL SERVING
21 IN THAT OFFICE.

22 § 9512. PRELIMINARY INVESTIGATION.

23 (A) COVERED PERSONS.--THE PANEL, UPON THE PETITION OF A
24 DISTRICT ATTORNEY, SHALL APPOINT A SPECIAL INVESTIGATIVE COUNSEL
25 TO CONDUCT A PRELIMINARY INVESTIGATION IN ACCORDANCE WITH THIS
26 CHAPTER WHENEVER THE PANEL RECEIVES INFORMATION FROM A DISTRICT
27 ATTORNEY SUFFICIENT TO CONSTITUTE GROUNDS TO INVESTIGATE WHETHER
28 ANY PERSON DESCRIBED IN SUBSECTION (B) MAY HAVE COMMITTED AN
29 OFFENSE WHICH IS CLASSIFIED HIGHER THAN A SUMMARY OFFENSE IN THE
30 DISTRICT ATTORNEY'S COUNTY. IF A DISTRICT ATTORNEY RECEIVES

1 INFORMATION THAT ANY PERSON DESCRIBED IN SUBSECTION (B) MAY HAVE
2 COMMITTED AN OFFENSE WHICH IS CLASSIFIED HIGHER THAN A SUMMARY
3 OFFENSE IN A COUNTY OTHER THAN THE DISTRICT ATTORNEY'S COUNTY,
4 THE DISTRICT ATTORNEY SHALL REFER THE INFORMATION TO THE
5 DISTRICT ATTORNEY OF THAT COUNTY.

6 (A.1) SPECIAL INVESTIGATIVE COUNSEL.--THE PANEL, UPON THE
7 PETITION OF THE REQUESTING JUDGE, SHALL APPOINT A SPECIAL
8 INVESTIGATIVE COUNSEL TO CONDUCT A PRELIMINARY INVESTIGATION IN
9 ACCORDANCE WITH THIS CHAPTER WHENEVER THE PANEL RECEIVES
10 INFORMATION FROM A REQUESTING PRESIDENT JUDGE SUFFICIENT TO
11 CONSTITUTE GROUNDS TO INVESTIGATE CRIMINAL CONTEMPT OF COURT AS
12 DESCRIBED IN SUBSECTION (D).

13 (B) APPLICABILITY.--THE PERSONS REFERRED TO IN SUBSECTION
14 (A) SHALL BE AS FOLLOWS:

15 (1) THE ATTORNEY GENERAL.

16 (1.1) A DEPUTY ATTORNEY GENERAL OR AN INDIVIDUAL WORKING
17 IN THE OFFICE OF ATTORNEY GENERAL WHO IS DEFINED AS A "PUBLIC
18 EMPLOYEE" UNDER 65 PA.C.S. § 1102 (RELATING TO DEFINITIONS)
19 ACTING IN CONCERT WITH THE ATTORNEY GENERAL TO COMMIT AN
20 OFFENSE WHICH IS CLASSIFIED HIGHER THAN A SUMMARY OFFENSE.

21 (2) ANY INDIVIDUAL WHO LEAVES ANY OFFICE OR POSITION
22 DESCRIBED IN PARAGRAPH (1) OR (1.1) DURING THE INCUMBENCY OF
23 THE ATTORNEY GENERAL WITH OR UNDER WHOM THE INDIVIDUAL SERVED
24 IN THE OFFICE OR POSITION, PLUS ONE YEAR AFTER THE
25 INCUMBENCY, BUT NOT LONGER THAN A PERIOD OF THREE YEARS AFTER
26 THE INDIVIDUAL LEAVES THE OFFICE OR POSITION. THIS PARAGRAPH
27 SHALL ONLY APPLY TO AN INDIVIDUAL DESCRIBED IN PARAGRAPH
28 (1.1) WHO MAY HAVE ACTED IN CONCERT WITH AN INDIVIDUAL
29 DESCRIBED IN PARAGRAPH (1) TO COMMIT AN OFFENSE WHICH IS
30 CLASSIFIED HIGHER THAN A SUMMARY OFFENSE.

1 (3) ANY INDIVIDUAL WHO HELD AN OFFICE OR POSITION
2 DESCRIBED IN PARAGRAPH (1) OR (1.1) DURING THE INCUMBENCY OF
3 ONE ATTORNEY GENERAL AND WHO CONTINUED TO HOLD THE OFFICE OR
4 POSITION FOR NOT MORE THAN 90 DAYS INTO THE TERM OF THE NEXT
5 ATTORNEY GENERAL, DURING THE ONE-YEAR PERIOD AFTER THE
6 INDIVIDUAL LEAVES THE OFFICE OR POSITION. THIS PARAGRAPH
7 SHALL ONLY APPLY TO AN INDIVIDUAL DESCRIBED IN PARAGRAPH
8 (1.1) WHO MAY HAVE ACTED IN CONCERT WITH AN INDIVIDUAL
9 DESCRIBED IN PARAGRAPH (1) TO COMMIT AN OFFENSE WHICH IS
10 CLASSIFIED HIGHER THAN A SUMMARY OFFENSE.

11 (4) THE CHAIRMAN AND TREASURER OF THE PRINCIPAL CAMPAIGN
12 COMMITTEE SEEKING THE ELECTION OR REELECTION OF THE ATTORNEY
13 GENERAL, AND ANY OFFICER OF THAT COMMITTEE EXERCISING
14 AUTHORITY AT THE STATE LEVEL, DURING THE INCUMBENCY OF THE
15 ELECTED ATTORNEY GENERAL. THIS PARAGRAPH SHALL ONLY APPLY TO
16 AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1.1) WHO MAY HAVE ACTED
17 IN CONCERT WITH AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) TO
18 COMMIT AN OFFENSE WHICH IS CLASSIFIED HIGHER THAN A SUMMARY
19 OFFENSE.

20 (B.1) PETITION FOR SPECIAL INVESTIGATIVE COUNSEL.--A
21 DISTRICT ATTORNEY, AT HIS OR HER DISCRETION, MAY PETITION THE
22 PANEL TO APPOINT SPECIAL INVESTIGATIVE COUNSEL, IF THE DISTRICT
23 ATTORNEY RECEIVES INFORMATION THAT ANY PERSON DESCRIBED IN
24 SUBSECTIONS (B) (1.1), (B) (2), (B) (3) OR (B) (4) MAY HAVE
25 COMMITTED AN OFFENSE HIGHER THAN A SUMMARY OFFENSE REGARDLESS OF
26 WHETHER OR NOT THE INDIVIDUAL ACTED IN CONCERT WITH A PERSON
27 DESCRIBED IN SUBSECTION (B) (1).

28 (C) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR
29 PRELIMINARY INVESTIGATION.--IN DETERMINING UNDER SUBSECTION (A)
30 WHETHER GROUNDS TO INVESTIGATE EXIST, A DISTRICT ATTORNEY SHALL

1 CONSIDER ONLY THE SPECIFICITY OF THE INFORMATION RECEIVED AND
2 THE CREDIBILITY OF THE SOURCE OF THE INFORMATION. A DISTRICT
3 ATTORNEY SHALL DETERMINE WHETHER GROUNDS TO INVESTIGATE EXIST NO
4 LATER THAN 90 DAYS AFTER THE INFORMATION IS FIRST RECEIVED. IF
5 WITHIN THAT 90-DAY PERIOD A DISTRICT ATTORNEY DETERMINES THAT
6 THE INFORMATION IS NOT SPECIFIC OR IS NOT FROM A CREDIBLE
7 SOURCE, THEN A DISTRICT ATTORNEY SHALL CLOSE THE MATTER. IF
8 WITHIN THAT 90-DAY PERIOD A DISTRICT ATTORNEY DETERMINES THAT
9 THE INFORMATION IS SPECIFIC AND FROM A CREDIBLE SOURCE, THE
10 DISTRICT ATTORNEY SHALL, UPON MAKING THAT DETERMINATION,
11 PETITION THE PANEL TO APPOINT A SPECIAL INVESTIGATIVE COUNSEL TO
12 COMMENCE A PRELIMINARY INVESTIGATION WITH RESPECT TO THAT
13 INFORMATION. IF A DISTRICT ATTORNEY IS UNABLE TO DETERMINE
14 WITHIN THAT 90-DAY PERIOD WHETHER THE INFORMATION IS SPECIFIC
15 AND FROM A CREDIBLE SOURCE, THE DISTRICT ATTORNEY SHALL AT THE
16 END OF THAT 90-DAY PERIOD PETITION THE PANEL TO APPOINT A
17 SPECIAL INVESTIGATIVE COUNSEL TO COMMENCE A PRELIMINARY
18 INVESTIGATION WITH RESPECT TO THAT INFORMATION. IF A SPECIAL
19 INVESTIGATIVE COUNSEL IS APPOINTED, THE SPECIAL INVESTIGATIVE
20 COUNSEL MAY ONLY ACCEPT THE APPOINTMENT WHEN THE APPOINTMENT
21 WOULD NOT CONFLICT WITH THE RULES GOVERNING PROFESSIONAL
22 CONDUCT.

23 (D) PRESIDENT JUDGE'S APPLICATION.--A PRESIDENT JUDGE, ON
24 HIS OWN OR AT THE REQUEST OF ANOTHER JUDGE, MAY APPLY TO THE
25 PANEL FOR APPOINTMENT OF A SPECIAL INVESTIGATIVE COUNSEL UPON A
26 CERTIFICATION THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT:

- 27 (1) THERE HAS BEEN A CRIMINAL CONTEMPT OF COURT;
28 (2) INVESTIGATION BY A PROSECUTOR MAY BE NECESSARY TO
29 ADDRESS A BREACH IN THE SANCTITY OF COURT PROCEEDINGS; AND
30 (3) THE PROSECUTOR WITH STATUTORY AUTHORITY TO CONDUCT

1 THE INVESTIGATION HAS OR IS LIKELY TO HAVE A CONFLICT OF
2 INTEREST.

3 (E) COMPENSATION.--A SPECIAL INVESTIGATIVE COUNSEL APPOINTED
4 UNDER THIS CHAPTER SHALL RECEIVE COMPENSATION AT THE PER DIEM
5 RATE EQUAL TO THE ANNUAL RATE OF BASIC PAY PAYABLE TO THE
6 ATTORNEY GENERAL. A SPECIAL INVESTIGATIVE COUNSEL SHALL BE
7 ENTITLED TO THE PAYMENT OF TRAVEL EXPENSES.

8 § 9513. CONDUCT OF PRELIMINARY INVESTIGATION.

9 (A) IN GENERAL.--A PRELIMINARY INVESTIGATION CONDUCTED UNDER
10 THIS CHAPTER SHALL BE OF MATTERS AS THE SPECIAL INVESTIGATIVE
11 COUNSEL CONSIDERS APPROPRIATE IN ORDER TO MAKE A DETERMINATION
12 UNDER SECTION 9514 (RELATING TO DETERMINATION THAT FURTHER
13 INVESTIGATION NOT WARRANTED) OR 9515 (RELATING TO DETERMINATION
14 THAT FURTHER INVESTIGATION IS WARRANTED) OF WHETHER FURTHER
15 INVESTIGATION IS WARRANTED WITH RESPECT TO EACH POTENTIAL
16 VIOLATION OR ALLEGATION OF A VIOLATION OF CRIMINAL LAW. THE
17 SPECIAL INVESTIGATIVE COUNSEL SHALL MAKE THE DETERMINATION NO
18 LATER THAN 90 DAYS AFTER THE PRELIMINARY INVESTIGATION IS
19 COMMENCED. THE SPECIAL INVESTIGATIVE COUNSEL SHALL PROMPTLY
20 NOTIFY THE PANEL OF THE DATE OF THE COMMENCEMENT OF THE
21 PRELIMINARY INVESTIGATION.

22 (B) LIMITED AUTHORITY OF SPECIAL INVESTIGATIVE COUNSEL.--

23 (1) IN CONDUCTING PRELIMINARY INVESTIGATIONS UNDER THIS
24 CHAPTER, THE SPECIAL INVESTIGATIVE COUNSEL SHALL HAVE NO
25 AUTHORITY TO CONVENE GRAND JURIES, PLEA BARGAIN, GRANT
26 IMMUNITY OR ISSUE SUBPOENAS.

27 (2) THE SPECIAL INVESTIGATIVE COUNSEL SHALL NOT BASE A
28 DETERMINATION UNDER THIS CHAPTER THAT INFORMATION WITH
29 RESPECT TO A VIOLATION OF CRIMINAL LAW BY A PERSON IS NOT
30 SPECIFIC AND FROM A CREDIBLE SOURCE UPON A DETERMINATION THAT

1 THE PERSON LACKED THE STATE OF MIND REQUIRED FOR THE
2 VIOLATION OF CRIMINAL LAW. THE SPECIAL INVESTIGATIVE COUNSEL
3 SHALL NOT BASE A DETERMINATION UNDER THIS CHAPTER THAT THERE
4 ARE NO REASONABLE GROUNDS TO BELIEVE THAT FURTHER
5 INVESTIGATION IS WARRANTED UPON A DETERMINATION THAT THE
6 PERSON LACKED THE STATE OF MIND REQUIRED FOR THE VIOLATION OF
7 CRIMINAL LAW INVOLVED UNLESS THERE IS CLEAR AND CONVINCING
8 EVIDENCE THAT THE PERSON LACKED THE REQUIRED STATE OF MIND.

9 (C) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.--THE
10 SPECIAL INVESTIGATIVE COUNSEL MAY APPLY TO THE PANEL FOR A
11 SINGLE EXTENSION, FOR A PERIOD OF NO MORE THAN 60 DAYS, OF THE
12 90-DAY PERIOD REFERRED TO IN SUBSECTION (A). THE PANEL MAY, UPON
13 A SHOWING OF GOOD CAUSE, GRANT THE EXTENSION.

14 § 9514. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

15 (A) NOTIFICATION OF PANEL.--IF THE SPECIAL INVESTIGATIVE
16 COUNSEL UPON COMPLETION OF A PRELIMINARY INVESTIGATION UNDER
17 THIS CHAPTER DETERMINES 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.

20 (B) FORM OF NOTIFICATION.--THE NOTIFICATION SHALL CONTAIN A
21 SUMMARY OF THE INFORMATION RECEIVED, A SUMMARY OF THE RESULTS OF
22 THE PRELIMINARY INVESTIGATION AND ALL MATERIALS COLLECTED AS
23 PART OF THE PRELIMINARY INVESTIGATION. THE SUMMARIES SHALL BE
24 CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE. THE SUMMARIES
25 SHALL BE CONSIDERED AN EXCEPTION FOR THE PURPOSES OF SECTION
26 708(B)(16) OF THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN
27 AS THE RIGHT-TO-KNOW LAW.

28 § 9515. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

29 (A) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.--THE
30 SPECIAL INVESTIGATIVE COUNSEL SHALL APPLY TO THE PANEL FOR THE

1 APPOINTMENT OF AN INDEPENDENT COUNSEL IF THE SPECIAL
2 INVESTIGATIVE COUNSEL, UPON COMPLETION OF A PRELIMINARY
3 INVESTIGATION UNDER THIS CHAPTER, DETERMINES THAT THERE ARE
4 REASONABLE GROUNDS TO BELIEVE THAT FURTHER INVESTIGATION IS
5 WARRANTED.

6 (A.1) REVIEW BY PANEL.--THE PANEL SHALL REVIEW AND CONSIDER
7 APPOINTING INDEPENDENT COUNSEL IF THE 90-DAY PERIOD REFERRED TO
8 IN SECTION 9513(A) (RELATING TO CONDUCT OF PRELIMINARY
9 INVESTIGATION) AND ANY EXTENSION GRANTED UNDER SECTION 9513(C)
10 HAVE ELAPSED AND THE SPECIAL INVESTIGATIVE COUNSEL HAS NOT FILED
11 A NOTIFICATION WITH THE PANEL UNDER SECTION 9514(A) (RELATING TO
12 DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED).

13 (B) RECEIPT OF ADDITIONAL INFORMATION.--IF, AFTER SUBMITTING
14 A NOTIFICATION UNDER SECTION 9514(A), THE SPECIAL INVESTIGATIVE
15 COUNSEL RECEIVES ADDITIONAL INFORMATION SUFFICIENT TO CONSTITUTE
16 GROUND TO INVESTIGATE THE MATTERS TO WHICH THE NOTIFICATION
17 RELATED, THE SPECIAL INVESTIGATIVE COUNSEL SHALL:

18 (1) CONDUCT AN ADDITIONAL PRELIMINARY INVESTIGATION AS
19 THE SPECIAL INVESTIGATIVE COUNSEL CONSIDERS APPROPRIATE FOR A
20 PERIOD OF NO MORE THAN 90 DAYS AFTER THE DATE ON WHICH THE
21 ADDITIONAL INFORMATION IS RECEIVED.

22 (2) OTHERWISE COMPLY WITH THE PROVISIONS OF THIS
23 SUBCHAPTER WITH RESPECT TO THE ADDITIONAL PRELIMINARY
24 INVESTIGATION TO THE SAME EXTENT AS ANY OTHER PRELIMINARY
25 INVESTIGATION UNDER THIS CHAPTER.

26 § 9516. CONTENTS OF APPLICATION.

27 ANY APPLICATION FOR THE APPOINTMENT OF AN INDEPENDENT COUNSEL
28 UNDER THIS CHAPTER SHALL CONTAIN SUFFICIENT INFORMATION TO
29 ASSIST THE PANEL IN SELECTING AN INDEPENDENT COUNSEL AND IN
30 DEFINING THAT INDEPENDENT COUNSEL'S PROSECUTORIAL JURISDICTION

1 SO THAT THE INDEPENDENT COUNSEL HAS ADEQUATE AUTHORITY TO FULLY
2 INVESTIGATE AND PROSECUTE THE SUBJECT MATTER AND ALL MATTERS
3 RELATED TO THAT SUBJECT MATTER.

4 § 9517. DUTIES OF PANEL.

5 (A) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.--

6 (1) UPON RECEIPT OF AN APPLICATION, THE PANEL SHALL
7 APPOINT AN APPROPRIATE INDEPENDENT COUNSEL AND SHALL DEFINE
8 THAT INDEPENDENT COUNSEL'S PROSECUTORIAL JURISDICTION. THE
9 APPOINTMENT SHALL OCCUR NO LATER THAN 30 DAYS AFTER THE
10 RECEIPT OF THE APPLICATION.

11 (2) THE PANEL SHALL APPOINT AS INDEPENDENT COUNSEL AN
12 INDIVIDUAL WHO HAS APPROPRIATE EXPERIENCE AND WHO WILL
13 CONDUCT THE INVESTIGATION AND ANY PROSECUTION IN A PROMPT,
14 RESPONSIBLE AND COST-EFFECTIVE MANNER. THE PANEL SHALL SEEK
15 TO APPOINT AS INDEPENDENT COUNSEL AN INDIVIDUAL WHO WILL
16 SERVE TO THE EXTENT NECESSARY TO COMPLETE THE INVESTIGATION
17 AND ANY PROSECUTION WITHOUT UNDUE DELAY. THE PANEL MAY NOT
18 APPOINT AS AN INDEPENDENT COUNSEL ANY PERSON WHO HOLDS ANY
19 OFFICE OF PROFIT OR TRUST WITH THE COMMONWEALTH. A PERSON WHO
20 IS SERVING AS A SPECIAL INVESTIGATIVE COUNSEL MAY NOT BE
21 APPOINTED OR SERVE AS AN INDEPENDENT COUNSEL IN THE MATTER
22 FOR WHICH THE PERSON HAD BEEN APPOINTED TO INVESTIGATE AS
23 SPECIAL INVESTIGATIVE COUNSEL. IF AN INDEPENDENT COUNSEL IS
24 APPOINTED, THE INDEPENDENT COUNSEL MAY ONLY ACCEPT THE
25 APPOINTMENT WHEN THE APPOINTMENT WOULD NOT CONFLICT WITH THE
26 RULES GOVERNING PROFESSIONAL CONDUCT.

27 (3) IN DEFINING THE INDEPENDENT COUNSEL'S PROSECUTORIAL
28 JURISDICTION, THE PANEL SHALL ASSURE THAT THE INDEPENDENT
29 COUNSEL HAS ADEQUATE AUTHORITY TO FULLY INVESTIGATE AND
30 PROSECUTE THE SUBJECT MATTER WITH RESPECT TO WHICH THE

1 SPECIAL INVESTIGATIVE COUNSEL HAS REQUESTED THE APPOINTMENT
2 OF THE INDEPENDENT COUNSEL AND ALL MATTERS RELATED TO THAT
3 SUBJECT MATTER. JURISDICTION SHALL ALSO INCLUDE THE AUTHORITY
4 TO INVESTIGATE AND PROSECUTE AN OFFENSE CLASSIFIED HIGHER
5 THAN A SUMMARY OFFENSE OR A CONTEMPT OF COURT WHICH MAY ARISE
6 OUT OF THE INVESTIGATION WITH RESPECT TO WHICH THE SPECIAL
7 INVESTIGATIVE COUNSEL'S REQUEST WAS MADE.

8 (4) THE PANEL SHALL DISCLOSE THE IDENTITY OF THE
9 INDEPENDENT COUNSEL UPON APPOINTMENT.

10 (B) EXPANSION OF JURISDICTION.--

11 (1) THE PANEL UPON THE REQUEST OF A DISTRICT ATTORNEY OR
12 A REQUESTING JUDGE MAY EXPAND THE PROSECUTORIAL JURISDICTION
13 OF AN INDEPENDENT COUNSEL. THE EXPANSION MAY BE IN LIEU OF
14 THE APPOINTMENT OF ANOTHER INDEPENDENT COUNSEL.

15 (2) IF THE INDEPENDENT COUNSEL DISCOVERS OR RECEIVES
16 INFORMATION ABOUT POSSIBLE VIOLATIONS OF CRIMINAL LAW BY
17 PERSONS AS PROVIDED IN SECTION 9512 (RELATING TO PRELIMINARY
18 INVESTIGATION) WHICH ARE NOT COVERED BY THE PROSECUTORIAL
19 JURISDICTION OF THE INDEPENDENT COUNSEL, THE INDEPENDENT
20 COUNSEL MAY SUBMIT THE INFORMATION TO A DISTRICT ATTORNEY. IN
21 ACCORDANCE WITH THIS SUBCHAPTER, A DISTRICT ATTORNEY SHALL
22 PETITION THE PANEL TO APPOINT A SPECIAL INVESTIGATIVE COUNSEL
23 TO CONDUCT A PRELIMINARY INVESTIGATION OF THE INFORMATION,
24 EXCEPT THAT THE PRELIMINARY INVESTIGATION SHALL NOT EXCEED 30
25 DAYS FROM THE DATE THE INFORMATION IS RECEIVED. IN MAKING THE
26 DETERMINATIONS REQUIRED BY THIS SUBCHAPTER, THE SPECIAL
27 INVESTIGATIVE COUNSEL SHALL GIVE GREAT WEIGHT TO ANY
28 RECOMMENDATIONS OF THE INDEPENDENT COUNSEL.

29 (3) IF THE SPECIAL INVESTIGATIVE COUNSEL DETERMINES,
30 AFTER ACCORDING GREAT WEIGHT TO THE RECOMMENDATIONS OF THE

1 INDEPENDENT COUNSEL, THAT THERE ARE NO REASONABLE GROUNDS TO
2 BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED, THE SPECIAL
3 INVESTIGATIVE COUNSEL SHALL PROMPTLY NOTIFY THE PANEL.

4 (4) THE PANEL SHALL EXPAND THE JURISDICTION OF THE
5 APPROPRIATE INDEPENDENT COUNSEL TO INCLUDE THE MATTERS
6 INVOLVED OR SHALL APPOINT ANOTHER INDEPENDENT COUNSEL TO
7 INVESTIGATE THE MATTERS IF:

8 (I) THE SPECIAL INVESTIGATIVE COUNSEL DETERMINES
9 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT FURTHER
10 INVESTIGATION IS WARRANTED; OR

11 (II) THE 30-DAY PERIOD REFERRED TO IN PARAGRAPH (2)
12 ELAPSES WITHOUT A NOTIFICATION TO THE PANEL THAT NO
13 FURTHER INVESTIGATION IS WARRANTED.

14 (5) IF THE INDEPENDENT COUNSEL DISCOVERS OR RECEIVES
15 INFORMATION ABOUT POSSIBLE VIOLATIONS OF CRIMINAL LAW BY
16 PERSONS OTHER THAN THOSE PROVIDED FOR IN SECTION 9512 AND
17 WHICH ARE NOT COVERED BY THE PROSECUTORIAL JURISDICTION OF
18 THE INDEPENDENT COUNSEL AND A REQUEST FOR EXPANSION UNDER
19 THIS SUBSECTION HAS NOT BEEN MADE BY A DISTRICT ATTORNEY OR A
20 REQUESTING JUDGE OR THE REQUEST FOR EXPANSION UNDER THIS
21 SUBSECTION HAS BEEN DENIED BY THE PANEL, THE INDEPENDENT
22 COUNSEL SHALL SUBMIT THE INFORMATION TO THE APPROPRIATE LAW
23 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 § 9518. DISCLOSURE OF INFORMATION.

10 EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, NO OFFICER OR
11 EMPLOYEE OF THE OFFICE OF SPECIAL INVESTIGATIVE COUNSEL OR THE
12 OFFICE OF INDEPENDENT COUNSEL MAY, WITHOUT LEAVE OF THE PANEL,
13 DISCLOSE TO ANY INDIVIDUAL OUTSIDE THE OFFICE OF SPECIAL
14 INVESTIGATIVE COUNSEL OR OFFICE OF INDEPENDENT COUNSEL ANY
15 NOTIFICATION, APPLICATION OR ANY OTHER DOCUMENT, MATERIAL OR
16 MEMORANDUM SUPPLIED TO THE PANEL UNDER THIS CHAPTER. INCLUDING
17 AN APPLICATION SUBMITTED UNDER SECTION 9516 (RELATING TO
18 CONTENTS OF APPLICATION) OR THE IDENTITY OF A SPECIAL
19 INVESTIGATIVE COUNSEL OR INDEPENDENT COUNSEL. NOTHING IN THIS
20 CHAPTER SHALL BE CONSTRUED AS AUTHORIZING THE WITHHOLDING OF
21 INFORMATION FROM THE GENERAL ASSEMBLY UNLESS THE PANEL
22 DETERMINES THAT DISCLOSURE OF THE INFORMATION WOULD NOT BE IN
23 THE BEST INTEREST OF JUSTICE.

24 SUBCHAPTER C

25 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

26 SEC.

27 9531. AUTHORITIES.

28 9532. COMPENSATION AND TRAVEL EXPENSES.

29 9533. ADDITIONAL PERSONNEL.

30 9534. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

1 9535. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.
2 9536. DISMISSAL OF MATTERS.
3 9537. REPORTS BY INDEPENDENT COUNSEL.
4 9538. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.
5 9539. STANDARDS OF CONDUCT.
6 9540. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.
7 9541. COST CONTROLS AND ADMINISTRATIVE SUPPORT.
8 9542. LEGISLATIVE OVERSIGHT.
9 9543. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF OFFICE.
10 9544. AUDITS.
11 9545. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.
12 9546. VENUE.
13 § 9531. AUTHORITIES.

14 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INDEPENDENT
15 COUNSEL APPOINTED UNDER THIS CHAPTER SHALL HAVE, WITH RESPECT TO
16 ALL MATTERS IN THE INDEPENDENT COUNSEL'S PROSECUTORIAL
17 JURISDICTION ESTABLISHED UNDER THIS CHAPTER, FULL POWER AND
18 INDEPENDENT AUTHORITY TO EXERCISE ALL INVESTIGATIVE AND
19 PROSECUTORIAL FUNCTIONS AND POWERS OF THE OFFICE OF ATTORNEY
20 GENERAL, THE ATTORNEY GENERAL AND ANY OTHER OFFICER OR EMPLOYEE
21 OF THE OFFICE OF ATTORNEY GENERAL. INVESTIGATIVE AND
22 PROSECUTORIAL FUNCTIONS AND POWERS SHALL INCLUDE, BUT ARE NOT
23 LIMITED TO:

24 (1) CONDUCTING PROCEEDINGS BEFORE GRAND JURIES AND OTHER
25 INVESTIGATIONS.

26 (2) PARTICIPATING IN COURT PROCEEDINGS AND ENGAGING IN
27 ANY LITIGATION, INCLUDING CIVIL AND CRIMINAL MATTERS, THAT
28 THE INDEPENDENT COUNSEL CONSIDERS NECESSARY.

29 (3) APPEALING ANY DECISION OF A COURT IN ANY CASE OR
30 PROCEEDING IN WHICH THE INDEPENDENT COUNSEL PARTICIPATES IN

1 AN OFFICIAL CAPACITY.

2 (4) REVIEWING ALL DOCUMENTARY EVIDENCE AVAILABLE FROM
3 ANY SOURCE.

4 (5) DETERMINING WHETHER TO CONTEST THE ASSERTION OF ANY
5 TESTIMONIAL PRIVILEGE.

6 (6) RECEIVING APPROPRIATE SECURITY CLEARANCES AND, IF
7 NECESSARY, CONTESTING IN COURT, INCLUDING, WHERE APPROPRIATE,
8 PARTICIPATING IN AN IN CAMERA PROCEEDING, ANY CLAIM OF
9 PRIVILEGE OR ATTEMPT TO WITHHOLD EVIDENCE ON GROUNDS OF
10 SECURITY.

11 (7) MAKING APPLICATIONS TO ANY STATE COURT FOR A GRANT
12 OF IMMUNITY TO ANY WITNESS, CONSISTENT WITH APPLICABLE
13 STATUTORY REQUIREMENTS, OR FOR WARRANTS, SUBPOENAS OR OTHER
14 COURT ORDERS AND EXERCISING THE AUTHORITY VESTED IN THE
15 ATTORNEY GENERAL OR A DISTRICT ATTORNEY.

16 (8) INSPECTING, OBTAINING OR USING THE ORIGINAL OR A
17 COPY OF ANY TAX RETURN IN ACCORDANCE WITH APPLICABLE STATUTES
18 AND REGULATIONS.

19 (9) INITIATING AND CONDUCTING PROSECUTIONS IN ANY COURT
20 OF COMPETENT JURISDICTION, FRAMING AND SIGNING INDICTMENTS,
21 FILING INFORMATION AND HANDLING ALL ASPECTS OF ANY CASE IN
22 THE NAME OF THE COMMONWEALTH.

23 (10) CONSULTING WITH THE DISTRICT ATTORNEY FOR THE
24 COUNTY IN WHICH ANY VIOLATION OF LAW WITH RESPECT TO WHICH
25 THE INDEPENDENT COUNSEL IS APPOINTED WAS ALLEGED TO HAVE
26 OCCURRED.

27 § 9532. COMPENSATION AND TRAVEL EXPENSES.

28 AN INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER SHALL
29 RECEIVE COMPENSATION AT THE PER DIEM RATE EQUAL TO THE ANNUAL
30 RATE OF BASIC PAY PAYABLE TO THE ATTORNEY GENERAL. AN

1 INDEPENDENT COUNSEL AND PERSONS APPOINTED UNDER SECTION 9533
2 (RELATING TO ADDITIONAL PERSONNEL) SHALL BE ENTITLED TO THE
3 PAYMENT OF TRAVEL EXPENSES.

4 § 9533. ADDITIONAL PERSONNEL.

5 FOR THE PURPOSES OF CARRYING OUT THE DUTIES OF THE OFFICE OF
6 INDEPENDENT COUNSEL, THE INDEPENDENT COUNSEL MAY APPOINT, FIX
7 THE COMPENSATION AND ASSIGN THE DUTIES OF THE EMPLOYEES THE
8 INDEPENDENT COUNSEL CONSIDERS NECESSARY, INCLUDING, BUT NOT
9 LIMITED TO, INVESTIGATORS, ATTORNEYS AND NECESSARY EXPERTS TO
10 ASSIST WITH THE CRIMINAL INVESTIGATION. THE POSITIONS OF THESE
11 EMPLOYEES ARE EXEMPTED FROM THE COMPETITIVE SERVICE. EMPLOYEES
12 SHALL BE COMPENSATED AT LEVELS NOT TO EXCEED THOSE PAYABLE FOR
13 COMPARABLE POSITIONS IN THE OFFICE OF ATTORNEY GENERAL.

14 § 9534. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

15 (A) CARRYING OUT FUNCTIONS.--AN INDEPENDENT COUNSEL MAY
16 REQUEST ASSISTANCE FROM THE PENNSYLVANIA STATE POLICE IN
17 CARRYING OUT THE FUNCTIONS OF THE INDEPENDENT COUNSEL, AND THE
18 PENNSYLVANIA STATE POLICE SHALL PROVIDE THAT ASSISTANCE, WHICH
19 MAY INCLUDE THE USE OF THE RESOURCES AND PERSONNEL NECESSARY TO
20 PERFORM THE INDEPENDENT COUNSEL'S DUTIES.

21 (B) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT
22 COUNSEL.--UPON THE REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY
23 SHALL APPROPRIATE THE NECESSARY FUNDS TO THE STATE TREASURER FOR
24 THE USE AND OPERATION IN EXECUTING THE DUTIES AND
25 RESPONSIBILITIES OF THE POSITION OF INDEPENDENT COUNSEL. UPON
26 THE REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY SHALL
27 APPROPRIATE THE NECESSARY FUNDS TO THE PENNSYLVANIA STATE POLICE
28 FOR COSTS INCURRED WHEN RENDERING ASSISTANCE TO THE INDEPENDENT
29 COUNSEL AS PROVIDED FOR UNDER SUBSECTION (A). THE STATE
30 TREASURER SHALL SUBMIT TO THE GENERAL ASSEMBLY, NO LATER THAN 30

1 DAYS AFTER THE END OF EACH FISCAL YEAR, A REPORT ON AMOUNTS PAID
2 DURING THAT FISCAL YEAR FOR EXPENSES OF INVESTIGATIONS AND
3 PROSECUTIONS BY INDEPENDENT COUNSEL. EACH REPORT SHALL INCLUDE A
4 STATEMENT OF ALL PAYMENTS MADE FOR ACTIVITIES OF INDEPENDENT
5 COUNSEL.

6 § 9535. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.

7 AN INDEPENDENT COUNSEL MAY PETITION THE PANEL TO REFER TO THE
8 INDEPENDENT COUNSEL MATTERS RELATED TO THE INDEPENDENT COUNSEL'S
9 PROSECUTORIAL JURISDICTION, AND THE PANEL MAY REFER THESE
10 MATTERS.

11 § 9536. DISMISSAL OF MATTERS.

12 THE INDEPENDENT COUNSEL SHALL HAVE FULL AUTHORITY TO DISMISS
13 MATTERS WITHIN THE INDEPENDENT COUNSEL'S PROSECUTORIAL
14 JURISDICTION AT ANY SUBSEQUENT TIME BEFORE PROSECUTION.

15 § 9537. REPORTS BY INDEPENDENT COUNSEL.

16 (A) REQUIRED REPORTS.--AN INDEPENDENT COUNSEL SHALL:

17 (1) FILE WITH THE PANEL, WITH RESPECT TO THE SIX-MONTH
18 PERIOD BEGINNING ON THE DATE OF APPOINTMENT AND WITH RESPECT
19 TO EACH SIX-MONTH PERIOD THEREAFTER UNTIL THE OFFICE OF THAT
20 INDEPENDENT COUNSEL TERMINATES, A REPORT WHICH IDENTIFIES AND
21 DETAILS ALL ACTUAL EXPENSES, SUMMARIZES ALL OTHER EXPENSES
22 INCURRED BY THAT OFFICE DURING THE SIX-MONTH PERIOD WITH
23 RESPECT TO WHICH THE REPORT IS FILED AND ESTIMATES FUTURE
24 EXPENSES OF THAT OFFICE.

25 (2) BEFORE THE TERMINATION OF THE INDEPENDENT COUNSEL'S
26 OFFICE UNDER SECTION 9543(B) (RELATING TO REMOVAL OF
27 INDEPENDENT COUNSEL AND TERMINATION OF OFFICE), FILE A FINAL
28 REPORT WITH THE PANEL, SETTING FORTH FULLY AND COMPLETELY A
29 DESCRIPTION OF ALL PROSECUTIONS. ALL OTHER INFORMATION SHALL
30 BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE.

1 (A.1) SUBJECT TO REQUIREMENTS.--INDIVIDUALS SERVING AS AN
2 INDEPENDENT COUNSEL AND PERSONS EMPLOYED BY OR SERVING AN
3 INDEPENDENT COUNSEL SHALL BE SUBJECT TO THE REQUIREMENTS OF THE
4 FOLLOWING ACTS:

5 (1) THE ACT OF JULY 19, 1957 (P.L.1017, NO.451), KNOWN
6 AS THE STATE ADVERSE INTEREST ACT.

7 (2) THE PROVISIONS OF 65 PA.C.S. CH. 11 (RELATING TO
8 ETHICS STANDARDS AND FINANCIAL DISCLOSURE).

9 (B) DISCLOSURE OF INFORMATION IN REPORTS.--THE PANEL MAY
10 RELEASE TO THE GENERAL ASSEMBLY, THE GOVERNOR, THE STATE
11 TREASURER, THE PUBLIC OR ANY APPROPRIATE PERSON THE PORTIONS OF
12 A REPORT MADE UNDER THIS SECTION AS THE PANEL CONSIDERS
13 APPROPRIATE. THE PANEL SHALL MAKE ANY ORDERS AS ARE APPROPRIATE
14 TO PROTECT THE RIGHTS OF ANY INDIVIDUAL NAMED IN THE REPORT AND
15 TO PREVENT UNDUE INTERFERENCE WITH ANY PENDING PROSECUTION. THE
16 PANEL MAY MAKE ANY PORTION OF A FINAL REPORT FILED UNDER
17 SUBSECTION (A) (2) AVAILABLE TO ANY INDIVIDUAL NAMED IN THE
18 REPORT FOR THE PURPOSES OF RECEIVING WITHIN A TIME LIMIT SET BY
19 THE PANEL ANY COMMENTS OR FACTUAL INFORMATION THAT THE
20 INDIVIDUAL MAY SUBMIT. THE COMMENTS AND FACTUAL INFORMATION, IN
21 WHOLE OR IN PART, MAY IN THE DISCRETION OF THE PANEL BE INCLUDED
22 AS AN APPENDIX TO THE FINAL REPORT.

23 § 9538. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.

24 EACH INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER AND THE
25 PERSONS APPOINTED BY THAT INDEPENDENT COUNSEL UNDER SECTION 9533
26 (RELATING TO ADDITIONAL PERSONNEL) ARE SEPARATE FROM AND
27 INDEPENDENT OF THE OFFICE OF ATTORNEY GENERAL.

28 § 9539. STANDARDS OF CONDUCT.

29 (A) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND
30 APPOINTEES ARE SERVING.--DURING THE PERIOD IN WHICH AN

1 INDEPENDENT COUNSEL IS SERVING UNDER THIS CHAPTER, THE
2 INDEPENDENT COUNSEL AND ANY PERSON ASSOCIATED WITH A FIRM WITH
3 WHICH THE INDEPENDENT COUNSEL IS ASSOCIATED MAY NOT REPRESENT IN
4 ANY MATTER ANY PERSON INVOLVED IN ANY INVESTIGATION OR
5 PROSECUTION UNDER THIS CHAPTER. DURING THE PERIOD IN WHICH ANY
6 PERSON APPOINTED BY AN INDEPENDENT COUNSEL UNDER SECTION 9533
7 (RELATING TO ADDITIONAL PERSONNEL) IS SERVING IN THE OFFICE OF
8 INDEPENDENT COUNSEL, THE PERSON MAY NOT REPRESENT IN ANY MATTER
9 ANY PERSON INVOLVED IN ANY INVESTIGATION OR PROSECUTION UNDER
10 THIS CHAPTER.

11 (B) POSTEMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND
12 APPOINTEES.--

13 (1) EACH INDEPENDENT COUNSEL AND EACH PERSON APPOINTED
14 BY THAT INDEPENDENT COUNSEL UNDER SECTION 9533 MAY NOT FOR
15 THREE YEARS FOLLOWING THE TERMINATION OF SERVICE UNDER THIS
16 CHAPTER OF THAT INDEPENDENT COUNSEL OR APPOINTED PERSON, AS
17 THE CASE MAY BE, REPRESENT ANY PERSON IN ANY MATTER IF THAT
18 INDIVIDUAL WAS THE SUBJECT OF AN INVESTIGATION OR PROSECUTION
19 CONDUCTED BY THAT INDEPENDENT COUNSEL UNDER THIS CHAPTER.

20 (2) EACH INDEPENDENT COUNSEL AND EACH PERSON APPOINTED
21 BY THAT INDEPENDENT COUNSEL UNDER SECTION 9533 MAY NOT FOR
22 ONE YEAR FOLLOWING THE TERMINATION OF SERVICE UNDER THIS
23 CHAPTER OF THAT INDEPENDENT COUNSEL OR APPOINTED PERSON, AS
24 THE CASE MAY BE, REPRESENT ANY PERSON IN ANY MATTER INVOLVING
25 ANY INVESTIGATION OR PROSECUTION UNDER THIS CHAPTER.

26 (C) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF
27 INDEPENDENT COUNSEL.--ANY PERSON WHO IS ASSOCIATED WITH A FIRM
28 WITH WHICH AN INDEPENDENT COUNSEL IS ASSOCIATED OR BECOMES
29 ASSOCIATED AFTER TERMINATION OF SERVICE OF THAT INDEPENDENT
30 COUNSEL UNDER THIS CHAPTER MAY NOT FOR ONE YEAR FOLLOWING THE

1 TERMINATION REPRESENT ANY PERSON IN ANY MATTER INVOLVING ANY
2 INVESTIGATION OR PROSECUTION UNDER THIS CHAPTER.

3 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
4 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
5 SUBSECTION:

6 "ASSOCIATED WITH A FIRM." A PERSON WHO IS AN OFFICER,
7 DIRECTOR, PARTNER OR OTHER MEMBER OR EMPLOYEE OF A LAW FIRM.

8 "FIRM." A LAW FIRM, WHETHER ORGANIZED AS A PARTNERSHIP OR
9 CORPORATION.

10 § 9540. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.

11 (A) TRANSFER OF RECORDS.--UPON TERMINATION OF THE OFFICE OF
12 INDEPENDENT COUNSEL, THAT INDEPENDENT COUNSEL SHALL TRANSFER TO
13 THE BUREAU OF THE PENNSYLVANIA STATE ARCHIVES OF THE
14 PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION ALL RECORDS WHICH
15 HAVE BEEN CREATED OR RECEIVED BY THAT OFFICE. BEFORE THIS
16 TRANSFER, THE INDEPENDENT COUNSEL SHALL CLEARLY IDENTIFY WHICH
17 OF THESE RECORDS ARE SUBJECT TO THE PENNSYLVANIA RULES OF
18 CRIMINAL PROCEDURE AS GRAND JURY MATERIALS.

19 (B) MAINTENANCE, USE AND DISPOSAL OF RECORDS.--RECORDS
20 TRANSFERRED TO THE BUREAU OF THE PENNSYLVANIA STATE ARCHIVES
21 UNDER THIS SECTION SHALL BE MAINTAINED, USED AND DISPOSED OF AS
22 PROVIDED BY LAW.

23 § 9541. COST CONTROLS AND ADMINISTRATIVE SUPPORT.

24 (A) COST CONTROLS.--AN INDEPENDENT COUNSEL SHALL:

25 (1) CONDUCT ALL ACTIVITIES WITH DUE REGARD FOR EXPENSE.

26 (2) AUTHORIZE ONLY REASONABLE AND LAWFUL EXPENDITURES.

27 (3) PROMPTLY UPON TAKING OFFICE ASSIGN TO A SPECIFIC
28 EMPLOYEE THE DUTY OF CERTIFYING THAT EXPENDITURES OF THE
29 INDEPENDENT COUNSEL ARE REASONABLE AND MADE IN ACCORDANCE
30 WITH LAW.

1 (B) OFFICE OF ADMINISTRATION POLICIES.--AN INDEPENDENT
2 COUNSEL SHALL COMPLY WITH THE ESTABLISHED POLICIES OF THE OFFICE
3 OF ADMINISTRATION OF THE GOVERNOR RESPECTING EXPENDITURES OF
4 FUNDS, EXCEPT TO THE EXTENT THAT COMPLIANCE WOULD BE
5 INCONSISTENT WITH THE PURPOSES OF THIS CHAPTER.
6 § 9542. LEGISLATIVE OVERSIGHT.

7 (A) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.--AN
8 INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER SHALL SUBMIT TO
9 THE GENERAL ASSEMBLY A REPORT DETAILING ALL FUNDS EXPENDED AS
10 REQUIRED UNDER SECTION 9537(A) (1) (RELATING TO REPORTS BY
11 INDEPENDENT COUNSEL) AND SHALL SUBMIT ANNUALLY A REPORT ON THE
12 ACTIVITIES OF THE INDEPENDENT COUNSEL, INCLUDING A DESCRIPTION
13 OF THE PROGRESS OF ANY INVESTIGATION OR PROSECUTION CONDUCTED BY
14 THE INDEPENDENT COUNSEL. THE REPORT MAY OMIT ANY MATTER THAT IN
15 THE JUDGMENT OF THE INDEPENDENT COUNSEL SHOULD BE KEPT
16 CONFIDENTIAL BUT SHALL PROVIDE INFORMATION ADEQUATE TO JUSTIFY
17 THE EXPENDITURES THAT THE OFFICE OF THE INDEPENDENT COUNSEL HAS
18 MADE.

19 (B) INFORMATION RELATING TO IMPEACHMENT.--AN INDEPENDENT
20 COUNSEL SHALL ADVISE THE HOUSE OF REPRESENTATIVES OF ANY
21 SUBSTANTIAL AND CREDIBLE INFORMATION WHICH THE INDEPENDENT
22 COUNSEL RECEIVES IN CARRYING OUT THE INDEPENDENT COUNSEL'S
23 RESPONSIBILITIES UNDER THIS CHAPTER THAT MAY CONSTITUTE GROUNDS
24 FOR AN IMPEACHMENT. NOTHING IN THIS CHAPTER SHALL PREVENT THE
25 GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FROM OBTAINING
26 INFORMATION IN THE COURSE OF AN IMPEACHMENT PROCEEDING.
27 § 9543. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF

28 OFFICE.

29 (A) REMOVAL, REPORT ON REMOVAL AND TERMINATION.--

30 (1) AN INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER

1 MAY BE REMOVED FROM OFFICE ONLY BY THE PERSONAL ACTION OF THE
2 PANEL AND ONLY FOR GOOD CAUSE, PHYSICAL DISABILITY, MENTAL
3 INCAPACITY OR ANY OTHER CONDITION THAT SUBSTANTIALLY IMPAIRS
4 THE PERFORMANCE OF THE INDEPENDENT COUNSEL'S DUTIES. FOR
5 PURPOSES OF THIS PARAGRAPH, THE TERM "GOOD CAUSE" INCLUDES
6 VIOLATIONS OF ANY ETHICAL RULES GOVERNING THE INDEPENDENT
7 COUNSEL, THE ATTORNEY GENERAL OR DISTRICT ATTORNEYS.

8 (2) IF AN INDEPENDENT COUNSEL IS REMOVED FROM OFFICE,
9 THE PANEL SHALL PROMPTLY SUBMIT TO THE JUDICIARY COMMITTEE OF
10 THE SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF
11 REPRESENTATIVES A REPORT SPECIFYING THE FACTS FOUND AND THE
12 ULTIMATE GROUNDS FOR THE REMOVAL. THE COMMITTEES MAY MAKE
13 AVAILABLE TO THE PUBLIC THE REPORT, EXCEPT THAT EACH
14 COMMITTEE MAY, IF NECESSARY TO PROTECT THE RIGHTS OF ANY
15 INDIVIDUAL NAMED IN THE REPORT OR TO PREVENT UNDUE
16 INTERFERENCE WITH ANY PENDING PROSECUTION, POSTPONE OR
17 REFRAIN FROM PUBLISHING ANY OR ALL OF THE REPORT. THE PANEL
18 MAY RELEASE ANY OR ALL OF THE REPORT IN ACCORDANCE WITH
19 SECTION 9537(B) (RELATING TO REPORTS BY INDEPENDENT COUNSEL).

20 (3) AN INDEPENDENT COUNSEL REMOVED FROM OFFICE MAY
21 OBTAIN JUDICIAL REVIEW OF THE REMOVAL IN A CIVIL ACTION
22 COMMENCED IN THE COMMONWEALTH COURT. THE INDEPENDENT COUNSEL
23 MAY BE REINSTATED OR GRANTED OTHER APPROPRIATE RELIEF BY
24 ORDER OF THE COMMONWEALTH COURT. A MEMBER OF THE PANEL MAY
25 NOT HEAR OR DETERMINE THE CIVIL ACTION OR ANY APPEAL OF A
26 DECISION IN THE CIVIL ACTION.

27 (B) TERMINATION OF OFFICE.--

28 (1) AN OFFICE OF INDEPENDENT COUNSEL SHALL TERMINATE
29 WHEN THE INDEPENDENT COUNSEL:

30 (I) NOTIFIES THE PANEL THAT THE INVESTIGATION OF ALL

1 MATTERS WITHIN THE PROSECUTORIAL JURISDICTION OF THE
2 INDEPENDENT COUNSEL OR ACCEPTED BY THE INDEPENDENT
3 COUNSEL, AND ANY RESULTING PROSECUTIONS, HAVE BEEN
4 COMPLETED; AND

5 (II) FILES A FINAL REPORT IN COMPLIANCE WITH SECTION
6 9537.

7 (2) THE PANEL SHALL DETERMINE ON ITS OWN MOTION WHETHER
8 TERMINATION IS APPROPRIATE UNDER THIS SUBSECTION NO LATER
9 THAN TWO YEARS AFTER THE APPOINTMENT OF AN INDEPENDENT
10 COUNSEL OR THE REPORTED EXPENDITURES OF THE INDEPENDENT
11 COUNSEL, INCLUDING PERSONNEL COSTS UNDER SECTIONS 9532
12 (RELATING TO COMPENSATION AND TRAVEL EXPENSES) AND 9533
13 (RELATING TO ADDITIONAL PERSONNEL), HAVE REACHED \$2,000,000,
14 WHICHEVER OCCURS FIRST, AND AT THE END OF EACH SUCCEEDING
15 ONE-YEAR PERIOD.

16 § 9544. AUDITS.

17 BY DECEMBER 31 OF EACH YEAR, AN INDEPENDENT COUNSEL SHALL
18 PREPARE A STATEMENT OF EXPENDITURES FOR THE FISCAL YEAR THAT
19 ENDED ON THE IMMEDIATELY PRECEDING JUNE 30. AN INDEPENDENT
20 COUNSEL WHOSE OFFICE IS TERMINATED PRIOR TO THE END OF THE
21 FISCAL YEAR SHALL PREPARE A STATEMENT OF EXPENDITURES WITHIN 90
22 DAYS OF THE DATE ON WHICH THE OFFICE IS TERMINATED. THE AUDITOR
23 GENERAL SHALL AUDIT EACH STATEMENT AND REPORT THE RESULTS OF
24 EACH AUDIT TO THE APPROPRIATE COMMITTEES OF THE GENERAL ASSEMBLY
25 NO LATER THAN MARCH 31 OF THE YEAR FOLLOWING THE SUBMISSION OF
26 THE STATEMENT.

27 § 9545. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.

28 WHENEVER A MATTER IS IN THE PROSECUTORIAL JURISDICTION OF AN
29 INDEPENDENT COUNSEL OR HAS BEEN ACCEPTED BY AN INDEPENDENT
30 COUNSEL UNDER SECTION 9535 (RELATING TO REFERRAL OF OTHER

1 MATTERS TO INDEPENDENT COUNSEL), THE OFFICE OF ATTORNEY GENERAL,
2 THE ATTORNEY GENERAL, ALL OTHER OFFICERS AND EMPLOYEES OF THE
3 OFFICE OF ATTORNEY GENERAL AND ANY DISTRICT ATTORNEY SHALL
4 SUSPEND ALL INVESTIGATIONS AND PROCEEDINGS REGARDING THAT MATTER
5 AND SHALL TURN OVER TO THE INDEPENDENT COUNSEL ALL MATERIALS,
6 FILES AND OTHER DATA RELATING TO THAT MATTER.

7 § 9546. VENUE.

8 THE PROPER VENUE FOR ALL PROSECUTIONS CONDUCTED BY THE
9 INDEPENDENT COUNSEL SHALL BE DETERMINED IN ACCORDANCE WITH THE
10 PENNSYLVANIA RULES OF CRIMINAL PROCEDURE, EXCEPT THAT FOR THE
11 PURPOSES OF CONVENIENCE AND FAIRNESS, THE PANEL MAY SET THE
12 VENUE IN ANY OTHER COUNTY ON ITS OWN MOTION OR AT THE REQUEST OF
13 THE INDEPENDENT COUNSEL OR ON PETITION OF THE DEFENDANT.

14 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.