
 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

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 18, 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~~
32 ~~duties upon the courts and district attorneys; repealing~~

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

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

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10 ~~Consolidated Statutes is repealed:~~

11 ~~{§ 9301. Short title of chapter.~~

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

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

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

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

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

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

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

29 ~~§ 9311. Organization of panel.~~

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

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

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

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

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

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

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

30 ~~§ 9312. Preliminary investigation.~~

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

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

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

16 ~~(b) Preliminary investigation with respect to persons not~~
17 ~~listed in subsection (c). The Attorney General shall request~~
18 ~~the General Counsel to appoint a special investigative counsel~~
19 ~~to conduct a preliminary investigation under the jurisdiction~~
20 ~~established or conferred under section 205(b) of the act of~~
21 ~~October 15, 1980 (P.L.950, No.164), known as the Commonwealth~~
22 ~~Attorneys Act, and where the Attorney General determines that an~~
23 ~~investigation or prosecution of the person, with respect to the~~
24 ~~information received, by the Attorney General or other officer~~
25 ~~of the Attorney General's office may result in a personal,~~
26 ~~financial or political conflict of interest. In addition, the~~
27 ~~Attorney General may request the General Counsel to appoint a~~
28 ~~special investigative counsel to conduct a preliminary~~
29 ~~investigation where the Attorney General determines that an~~
30 ~~investigation or prosecution of the person, with respect to the~~

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

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

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

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

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

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

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

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

21 ~~§ 9313. Conduct of preliminary investigation.~~

22 ~~(a) In general. A preliminary investigation conducted under~~
23 ~~this chapter shall be of matters as the special investigative~~
24 ~~counsel considers appropriate in order to make a determination~~
25 ~~under section 9314 (relating to determination that further~~
26 ~~investigation not warranted) or 9315 (relating to determination~~
27 ~~that further investigation is warranted) of whether further~~
28 ~~investigation is warranted with respect to each potential~~
29 ~~violation or allegation of a violation of criminal law. The~~
30 ~~special investigative counsel shall make the determination no~~

1 ~~later than 90 days after the preliminary investigation is~~
2 ~~commenced. The special investigative counsel shall promptly~~
3 ~~notify the panel of the date of the commencement of the~~
4 ~~preliminary investigation.~~

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

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

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

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

27 ~~§ 9314. Determination that further investigation not warranted.~~

28 ~~(a) Notification of panel. If the special investigative~~
29 ~~counsel upon completion of a preliminary investigation under~~
30 ~~this chapter determines that there are no reasonable grounds to~~

1 ~~believe that further investigation is warranted, the special~~
2 ~~investigative counsel shall promptly so notify the panel, and~~
3 ~~the panel shall have no power to appoint an independent counsel~~
4 ~~with respect to the matters involved.~~

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

11 ~~§ 9315. Determination that further investigation is warranted.~~

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

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

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

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

30 ~~(1) Conduct an additional preliminary investigation as~~

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

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

8 ~~§ 9316. Contents of application.~~

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

16 ~~§ 9317. Disclosure of information.~~

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

26 ~~§ 9318. Limitation on judicial review.~~

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

30 ~~§ 9319. Duties of panel.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~notification under this subchapter that there are no reasonable~~
2 ~~grounds to believe that further investigation is warranted with~~
3 ~~respect to information received under this chapter, the panel~~
4 ~~shall have no authority to overrule this determination but may~~
5 ~~return the matter to the special investigative counsel for~~
6 ~~further explanation of the reasons for the determination.~~

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

15 ~~§ 9331. Authorities.~~

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

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

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

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

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

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

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

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

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

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

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

29 ~~§ 9332. Compensation and travel expenses.~~

30 ~~An independent counsel appointed under this chapter shall~~

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

6 ~~§ 9333. Additional personnel.~~

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

16 ~~§ 9334. Assistance of Pennsylvania State Police.~~

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

23 ~~(b) Payment of and reports on expenditures of independent~~
24 ~~counsel. Upon the request of the Governor, the General Assembly~~
25 ~~shall appropriate the necessary funds to the State Treasurer for~~
26 ~~the use and operation in executing the duties and~~
27 ~~responsibilities of the position of independent counsel. Upon~~
28 ~~the request of the Governor, the General Assembly shall~~
29 ~~appropriate the necessary funds to the Pennsylvania State Police~~
30 ~~for costs incurred when rendering assistance to the independent~~

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

8 ~~§ 9335. Referral of other matters to independent counsel.~~

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

16 ~~§ 9336. Dismissal of matters.~~

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

21 ~~§ 9337. Reports by independent counsel.~~

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

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

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

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

21 ~~§ 9338. Independence from Office of Attorney General.~~

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

26 ~~§ 9339. Standards of conduct applicable to independent counsel,~~
27 ~~persons serving in office of independent counsel and~~
28 ~~their law firms.~~

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 9333~~
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 9333 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 9333 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 ~~§ 9340. 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 Archives and History of the Pennsylvania~~
14 ~~Historical and Museum Commission all records which have been~~
15 ~~created or received by that office. Before this transfer, the~~
16 ~~independent counsel shall clearly identify which of these~~
17 ~~records are subject to the Pennsylvania Rules of Criminal~~
18 ~~Procedure as grand jury materials.~~

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

23 ~~§ 9341. 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 ~~§ 9342. 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 moneys expended as~~
10 ~~required under section 9337(a)(1) (relating to reports by~~
11 ~~independent counsel). In addition, the independent counsel shall~~
12 ~~submit annually a report on the activities of the independent~~
13 ~~counsel, including a description of the progress of any~~
14 ~~investigation or prosecution conducted by the independent~~
15 ~~counsel. The report may omit any matter that in the judgment of~~
16 ~~the independent counsel should be kept confidential but shall~~
17 ~~provide information adequate to justify the expenditures that~~
18 ~~the office of the independent counsel has 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 ~~§ 9343. 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 ~~General Counsel and only for good cause, physical disability,~~
3 ~~mental incapacity or any other condition that substantially~~
4 ~~impairs the performance of the independent counsel's duties.~~
5 ~~For purposes of this paragraph, the term "good cause"~~
6 ~~includes, but is not limited to, violations of any ethical~~
7 ~~rules governing the independent counsel, the Attorney General~~
8 ~~or district attorneys.~~

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

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

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

29 ~~(1) An office of independent counsel shall terminate~~
30 ~~when the independent counsel:~~

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

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

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

14 ~~§ 9344. Audits.~~

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

25 ~~§ 9345. Relationship with Office of Attorney General.~~

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

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

5 ~~§ 9346. Venue.~~

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

12 ~~§ 9351. Severability of chapter.~~

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

18 ~~§ 9352. Expiration of chapter.~~

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

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

26 ~~CHAPTER 95~~

27 ~~INDEPENDENT COUNSEL~~

28 ~~Subchapter~~

29 ~~A. Preliminary Provisions~~

30 ~~B. General Provisions~~

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

~~D. Miscellaneous Provisions~~

~~SUBCHAPTER A~~

~~PRELIMINARY PROVISIONS~~

~~Sec.~~

~~9501. Scope of chapter.~~

~~9502. Definitions.~~

~~§ 9501. Scope of chapter.~~

~~This chapter relates to independent counsel.~~

~~§ 9502. Definitions.~~

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

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

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

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

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

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

~~SUBCHAPTER B~~

~~GENERAL PROVISIONS~~

~~Sec.~~

~~9511. Organization of panel.~~

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

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

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

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

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

30 ~~(d) Decisions by majority vote. All decisions of the panel~~

1 ~~shall be by majority vote of the members.~~

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

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

12 ~~§ 9512. Investigation of the Attorney General.~~

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

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

29 ~~(c) Preliminary investigation. If the General Counsel~~
30 ~~receives a referral from a district attorney as provided in~~

1 ~~subsection (b), the General Counsel shall appoint a special~~
2 ~~investigative counsel to conduct a preliminary investigation in~~
3 ~~accordance with this chapter.~~

4 ~~§ 9513. Conduct of preliminary investigation.~~

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

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

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

27 ~~§ 9514. Determination that further investigation not warranted.~~

28 ~~(a) Notification of panel. If the special investigative~~
29 ~~counsel upon completion of a preliminary investigation under~~
30 ~~this chapter determines that there are no reasonable grounds to~~

1 ~~believe that further investigation is warranted, the special~~
2 ~~investigative counsel shall promptly so notify the panel, and~~
3 ~~the panel shall have no power to appoint an independent counsel~~
4 ~~with respect to the matters involved.~~

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

11 ~~§ 9515. Determination that further investigation is warranted.~~

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

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

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

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

30 ~~(1) Conduct an additional preliminary investigation as~~

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

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

~~§ 9516. Contents of application.~~

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

~~§ 9517. Disclosure of information.~~

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

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

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

1 ~~§ 9519. 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 not appoint as an independent~~
9 ~~counsel any person who holds any office of profit or trust~~
10 ~~with the Commonwealth. No person who is serving as a special~~
11 ~~investigative counsel may be appointed or serve as an~~
12 ~~independent counsel in the matter for which they had been~~
13 ~~appointed to investigate as special investigative counsel.~~

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

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

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

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

1 ~~investigative counsel for further explanation of the reasons for~~
2 ~~the determination.~~

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

11 ~~SUBCHAPTER C~~

12 ~~AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL~~

13 ~~Sec.~~

14 ~~9531. Authorities.~~

15 ~~9532. Compensation and travel expenses.~~

16 ~~9333. Additional personnel.~~

17 ~~9534. Assistance of Pennsylvania State Police.~~

18 ~~9535. (Reserved).~~

19 ~~9536. Dismissal of matters.~~

20 ~~9537. Reports by independent counsel.~~

21 ~~9538. (Reserved).~~

22 ~~9539. Standards of conduct applicable to independent counsel,~~
23 ~~persons serving in office of independent counsel and~~
24 ~~their law firms.~~

25 ~~9540. Custody of records of independent counsel.~~

26 ~~9541. Cost controls and administrative support.~~

27 ~~9542. Legislative oversight.~~

28 ~~9543. Removal of independent counsel and termination of office.~~

29 ~~9544. Audits.~~

30 ~~9545. Suspension of investigations.~~

1 ~~§ 9531. Authorities.~~

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

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

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

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

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

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

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

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

~~§ 9533. Additional personnel.~~

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

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

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

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

~~§ 9535. (Reserved).~~

1 ~~§ 9536. Dismissal of matters.~~

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

6 ~~§ 9537. Reports by independent counsel.~~

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

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

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

22 ~~(b) Disclosure of information in reports. The panel may~~
23 ~~release to the General Assembly, the Governor, the State~~
24 ~~Treasurer, the public or any appropriate person the portions of~~
25 ~~a report made under this section as the panel considers~~
26 ~~appropriate. The panel shall make any orders as are appropriate~~
27 ~~to protect the rights of any individual named in the report and~~
28 ~~to prevent undue interference with any pending prosecution. The~~
29 ~~panel may make any portion of a final report filed under~~
30 ~~subsection (a) (2) available to any individual named in the~~

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

6 ~~§ 9538. (Reserved).~~

7 ~~§ 9539. Standards of conduct applicable to independent counsel,~~
8 ~~persons serving in office of independent counsel and~~
9 ~~their law firms.~~

10 ~~(a) Restrictions on employment while independent counsel and~~
11 ~~appointees are serving. During the period in which an~~
12 ~~independent counsel is serving under this chapter, the~~
13 ~~independent counsel and any person associated with a firm with~~
14 ~~which the independent counsel is associated may not represent in~~
15 ~~any matter any person who is or was the subject of any~~
16 ~~investigation or prosecution under this chapter. During the~~
17 ~~period in which any person appointed by an independent counsel~~
18 ~~under section 9533 (relating to additional personnel) is serving~~
19 ~~in the office of independent counsel, the person may not~~
20 ~~represent in any matter any person involved in any investigation~~
21 ~~or prosecution under this chapter.~~

22 ~~(b) Postemployment restrictions on independent counsel and~~
23 ~~appointees.~~

24 ~~(1) Each independent counsel and each person appointed~~
25 ~~by that independent counsel under section 9533 may not for~~
26 ~~three years following the termination of service under this~~
27 ~~chapter of that independent counsel or appointed person, as~~
28 ~~the case may be, represent any person in any matter if that~~
29 ~~individual was the subject of an investigation or prosecution~~
30 ~~conducted by that independent counsel under this chapter.~~

~~(2) Each independent counsel and each person appointed by that independent counsel under section 9533 may not for one year following the termination of service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.~~

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

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

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

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

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

~~(a) Transfer of records. Upon termination of the office of independent counsel, that independent counsel shall transfer to the General Counsel all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to the Pennsylvania Rules of Criminal Procedure as grand jury materials. All records shall remain under seal unless release has been ordered or approved by a court of competent jurisdiction or until they are required or permitted by law to~~

1 ~~be transferred to the Bureau of Archives and History of the~~
2 ~~Pennsylvania Historical and Museum Commission.~~

3 ~~(b) Maintenance, use and disposal of records. Records~~
4 ~~transferred to the Bureau of Archives and History under this~~
5 ~~section shall be maintained, used and disposed of as provided by~~
6 ~~law.~~

7 ~~§ 9541. Cost controls and administrative support.~~

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

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

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

11 ~~(3) Promptly upon taking office assign to a specific~~
12 ~~employee the duty of certifying that expenditures of the~~
13 ~~independent counsel are reasonable and made in accordance~~
14 ~~with law.~~

15 ~~(b) Office of Administration policies. An independent~~
16 ~~counsel shall comply with the established policies of the Office~~
17 ~~of Administration of the Governor respecting expenditures of~~
18 ~~funds, except to the extent that compliance would be~~
19 ~~inconsistent with the purposes of this chapter.~~

20 ~~§ 9542. Legislative oversight.~~

21 ~~(a) Oversight of conduct of independent counsel. An~~
22 ~~independent counsel appointed under this chapter shall submit to~~
23 ~~the General Assembly a report detailing all moneys expended as~~
24 ~~required under section 9537(a)(1) (relating to reports by~~
25 ~~independent counsel). In addition, the independent counsel shall~~
26 ~~submit annually a report on the activities of the independent~~
27 ~~counsel, including a description of the progress of any~~
28 ~~investigation or prosecution conducted by the independent~~
29 ~~counsel. The report may omit any matter that in the judgment of~~
30 ~~the independent counsel should be kept confidential but shall~~

1 ~~provide information adequate to justify the expenditures that~~
2 ~~the office of the independent counsel has made.~~

3 ~~(b) Information relating to impeachment. An independent~~
4 ~~counsel shall advise the House of Representatives of any~~
5 ~~substantial and credible information which the independent~~
6 ~~counsel receives in carrying out the independent counsel's~~
7 ~~responsibilities under this chapter that may constitute grounds~~
8 ~~for an impeachment. Nothing in this chapter shall prevent the~~
9 ~~General Assembly or either house thereof from obtaining~~
10 ~~information in the course of an impeachment proceeding.~~

11 ~~§ 9543. Removal of independent counsel and termination of~~
12 ~~office.~~

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

14 ~~(1) An independent counsel appointed under this chapter~~
15 ~~may be removed from office by the panel if, in the judgment~~
16 ~~of a majority of the panel, the independent counsel is~~
17 ~~unwilling or unable to perform the duties of the office in a~~
18 ~~timely and cost effective manner.~~

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

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

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

27 ~~(i) notifies the panel that the investigation of all~~
28 ~~matters within the prosecutorial jurisdiction of the~~
29 ~~independent counsel or accepted by the independent~~
30 ~~counsel, and any resulting prosecutions and appeals, have~~

1 ~~been completed; and~~

2 ~~(ii) files a final report in compliance with section~~
3 ~~9537.~~

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

8 ~~§ 9544. Audits.~~

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

19 ~~§ 9545. Suspension of investigations.~~

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

27 ~~SUBCHAPTER D~~

28 ~~MISCELLANEOUS PROVISIONS~~

29 ~~Sec.~~

30 ~~9551. Severability of chapter.~~

1 ~~9552. Expiration of chapter.~~

2 ~~§ 9551. Severability of chapter.~~

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

8 ~~§ 9552. Expiration of chapter.~~

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

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

19 ~~Section 205. Criminal prosecutions.~~

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

22 ~~* * *~~

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

29 ~~(i) If the Attorney General declines to accept or-~~
30 ~~act on the request, the district attorney may refer the-~~

~~matter to any district attorney of a contiguous county who has sufficient resources and has no conflict of interest in representing the Commonwealth.~~

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

~~(iii) A district attorney who has accepted a case under subparagraph (i) or (ii) 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.~~

~~* * *~~

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

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

~~(2) If the district attorney to whom the investigation or prosecution was referred lacks sufficient resources or determines that the matter creates a potential conflict of interest for the district attorney or the district attorney's office, the district attorney shall refer the matter to a 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 JUVENILE DELINQUENCY COURT UNDER SECTION 205(A) (3) OF THE ACT OF

<--

1 OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH
2 ATTORNEYS ACT, AND THE ATTORNEY GENERAL DECLINES TO ACCEPT OR
3 ACT ON THE REQUEST, THE FOLLOWING SHALL APPLY:

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

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

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

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

18 [CHAPTER 93
19 INDEPENDENT COUNSEL

20 SUBCHAPTER

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

25 SUBCHAPTER A

26 PRELIMINARY PROVISIONS

27 SEC.

28 9301. SHORT TITLE OF CHAPTER.

29 9302. DEFINITIONS.

30 § 9301. SHORT TITLE OF CHAPTER.

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

3 § 9302. DEFINITIONS.

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

7 "GENERAL COUNSEL." THE GENERAL COUNSEL OF THE COMMONWEALTH.

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

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

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

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

19 SUBCHAPTER B

20 GENERAL PROVISIONS

21 SEC.

22 9311. ORGANIZATION OF PANEL.

23 9312. PRELIMINARY INVESTIGATION.

24 9313. CONDUCT OF PRELIMINARY INVESTIGATION.

25 9314. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

26 9315. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

27 9316. CONTENTS OF APPLICATION.

28 9317. DISCLOSURE OF INFORMATION.

29 9318. LIMITATION ON JUDICIAL REVIEW.

30 9319. DUTIES OF PANEL.

1 § 9311. ORGANIZATION OF PANEL.

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

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

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

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

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

28 (F) RESTRICTION.--NO MEMBER OF THE PANEL WHO PARTICIPATED IN
29 A FUNCTION CONFERRED ON THE PANEL UNDER THIS CHAPTER INVOLVING
30 AN INDEPENDENT COUNSEL SHALL BE ELIGIBLE TO PARTICIPATE IN ANY

1 JUDICIAL PROCEEDING CONCERNING A MATTER WHICH INVOLVES THE
2 INDEPENDENT COUNSEL AND WHICH INVOLVES THE EXERCISE OF THE
3 INDEPENDENT COUNSEL'S OFFICIAL DUTIES, REGARDLESS OF WHETHER THE
4 INDEPENDENT COUNSEL IS STILL SERVING IN THAT OFFICE.

5 § 9312. PRELIMINARY INVESTIGATION.

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

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

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

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

1 FINANCIAL OR POLITICAL CONFLICT OF INTEREST. IN ADDITION, THE
2 ATTORNEY GENERAL MAY REQUEST THE GENERAL COUNSEL TO APPOINT A
3 SPECIAL INVESTIGATIVE COUNSEL TO CONDUCT A PRELIMINARY
4 INVESTIGATION WHERE THE ATTORNEY GENERAL DETERMINES THAT AN
5 INVESTIGATION OR PROSECUTION OF THE PERSON, WITH RESPECT TO THE
6 INFORMATION RECEIVED, BY THE ATTORNEY GENERAL OR OTHER OFFICER
7 OF THE ATTORNEY GENERAL'S OFFICE MAY RESULT IN A PERSONAL,
8 FINANCIAL OR POLITICAL CONFLICT OF INTEREST.

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

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

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

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

27 (4) THE CHAIRMAN AND TREASURER OF THE PRINCIPAL CAMPAIGN
28 COMMITTEE SEEKING THE ELECTION OR REELECTION OF THE ATTORNEY
29 GENERAL, AND ANY OFFICER OF THAT COMMITTEE EXERCISING
30 AUTHORITY AT THE STATE LEVEL, DURING THE INCUMBENCY OF THE

1 ELECTED ATTORNEY GENERAL.

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

26 § 9313. CONDUCT OF PRELIMINARY INVESTIGATION.

27 (A) IN GENERAL.--A PRELIMINARY INVESTIGATION CONDUCTED UNDER
28 THIS CHAPTER SHALL BE OF MATTERS AS THE SPECIAL INVESTIGATIVE
29 COUNSEL CONSIDERS APPROPRIATE IN ORDER TO MAKE A DETERMINATION
30 UNDER SECTION 9314 (RELATING TO DETERMINATION THAT FURTHER

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

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

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

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

27 (C) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.--THE
28 SPECIAL INVESTIGATIVE COUNSEL MAY APPLY TO THE PANEL FOR A
29 SINGLE EXTENSION, FOR A PERIOD OF NO MORE THAN 60 DAYS, OF THE
30 90-DAY PERIOD REFERRED TO IN SUBSECTION (A). THE PANEL MAY, UPON

1 A SHOWING OF GOOD CAUSE, GRANT THE EXTENSION.

2 § 9314. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

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

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

16 § 9315. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

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

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

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

30 (B) RECEIPT OF ADDITIONAL INFORMATION.--IF, AFTER SUBMITTING

1 A NOTIFICATION UNDER SECTION 9314(A), THE SPECIAL INVESTIGATIVE
2 COUNSEL RECEIVES ADDITIONAL INFORMATION SUFFICIENT TO CONSTITUTE
3 GROUNDS TO INVESTIGATE THE MATTERS TO WHICH THE NOTIFICATION
4 RELATED, THE SPECIAL INVESTIGATIVE COUNSEL SHALL:

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

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

13 § 9316. CONTENTS OF APPLICATION.

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

21 § 9317. DISCLOSURE OF INFORMATION.

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

1 § 9318. LIMITATION ON JUDICIAL REVIEW.

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

5 § 9319. DUTIES OF PANEL.

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

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

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

28 (3) IN DEFINING THE INDEPENDENT COUNSEL'S PROSECUTORIAL
29 JURISDICTION, THE PANEL SHALL ASSURE THAT THE INDEPENDENT
30 COUNSEL HAS ADEQUATE AUTHORITY TO FULLY INVESTIGATE AND

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

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

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

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

19 (B) EXPANSION OF JURISDICTION.--

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

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

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

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

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

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

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

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

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

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

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

20 SUBCHAPTER C

21 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

22 SEC.

23 9331. AUTHORITIES.

24 9332. COMPENSATION AND TRAVEL EXPENSES.

25 9333. ADDITIONAL PERSONNEL.

26 9334. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

27 9335. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.

28 9336. DISMISSAL OF MATTERS.

29 9337. REPORTS BY INDEPENDENT COUNSEL.

30 9338. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.

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

11 § 9331. AUTHORITIES.

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

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

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

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

30 (4) REVIEWING ALL DOCUMENTARY EVIDENCE AVAILABLE FROM

1 ANY SOURCE.

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

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

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

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

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

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

25 § 9332. COMPENSATION AND TRAVEL EXPENSES.

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

1 PAYMENT OF TRAVEL EXPENSES.

2 § 9333. ADDITIONAL PERSONNEL.

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

12 § 9334. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

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

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

1 PROSECUTIONS BY INDEPENDENT COUNSEL. EACH REPORT SHALL INCLUDE A
2 STATEMENT OF ALL PAYMENTS MADE FOR ACTIVITIES OF INDEPENDENT
3 COUNSEL.

4 § 9335. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.

5 AN INDEPENDENT COUNSEL MAY ASK THE PANEL TO REFER TO THE
6 INDEPENDENT COUNSEL MATTERS RELATED TO THE INDEPENDENT COUNSEL'S
7 PROSECUTORIAL JURISDICTION, AND THE PANEL MAY REFER THESE
8 MATTERS. IF THE ATTORNEY GENERAL REFERS A MATTER TO AN
9 INDEPENDENT COUNSEL ON THE ATTORNEY GENERAL'S OWN INITIATIVE,
10 THE INDEPENDENT COUNSEL MAY ACCEPT THE REFERRAL IF THE MATTER
11 RELATES TO THE INDEPENDENT COUNSEL'S PROSECUTORIAL JURISDICTION.

12 § 9336. DISMISSAL OF MATTERS.

13 THE INDEPENDENT COUNSEL SHALL HAVE FULL AUTHORITY TO DISMISS
14 MATTERS WITHIN THE INDEPENDENT COUNSEL'S PROSECUTORIAL
15 JURISDICTION WITHOUT CONDUCTING AN INVESTIGATION OR AT ANY
16 SUBSEQUENT TIME BEFORE PROSECUTION.

17 § 9337. REPORTS BY INDEPENDENT COUNSEL.

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

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

27 (2) BEFORE THE TERMINATION OF THE INDEPENDENT COUNSEL'S
28 OFFICE UNDER SECTION 9343(B) (RELATING TO REMOVAL OF
29 INDEPENDENT COUNSEL AND TERMINATION OF OFFICE), FILE A FINAL
30 REPORT WITH THE PANEL, SETTING FORTH FULLY AND COMPLETELY A

1 DESCRIPTION OF ALL PROSECUTIONS. ALL OTHER INFORMATION SHALL
2 BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE.

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

17 § 9338. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.

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

22 § 9339. STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL,
23 PERSONS SERVING IN OFFICE OF INDEPENDENT COUNSEL AND
24 THEIR LAW FIRMS.

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

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

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

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

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

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

29 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION:

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

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

6 § 9340. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.

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

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

19 § 9341. COST CONTROLS AND ADMINISTRATIVE SUPPORT.

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

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

22 (2) AUTHORIZE ONLY REASONABLE AND LAWFUL EXPENDITURES.

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

27 (B) OFFICE OF ADMINISTRATION POLICIES.--AN INDEPENDENT
28 COUNSEL SHALL COMPLY WITH THE ESTABLISHED POLICIES OF THE OFFICE
29 OF ADMINISTRATION OF THE GOVERNOR RESPECTING EXPENDITURES OF
30 FUNDS, EXCEPT TO THE EXTENT THAT COMPLIANCE WOULD BE

1 INCONSISTENT WITH THE PURPOSES OF THIS CHAPTER.

2 § 9342. LEGISLATIVE OVERSIGHT.

3 (A) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.--AN

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

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

23 § 9343. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF
24 OFFICE.

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

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

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

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

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

24 (B) TERMINATION OF OFFICE.--

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

27 (I) NOTIFIES THE PANEL THAT THE INVESTIGATION OF ALL
28 MATTERS WITHIN THE PROSECUTORIAL JURISDICTION OF THE
29 INDEPENDENT COUNSEL OR ACCEPTED BY THE INDEPENDENT
30 COUNSEL, AND ANY RESULTING PROSECUTIONS, HAVE BEEN

1 COMPLETED; AND

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

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

10 § 9344. AUDITS.

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

21 § 9345. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.

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

1 § 9346. VENUE.

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

8 SUBCHAPTER D
9 MISCELLANEOUS PROVISIONS

10 SEC.

11 9351. SEVERABILITY OF CHAPTER.

12 9352. EXPIRATION OF CHAPTER.

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 3. 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 SUBCHAPTER A

4 PRELIMINARY PROVISIONS

5 SEC.

6 9501. SCOPE OF CHAPTER.

7 9502. DEFINITIONS.

8 9503. ADMINISTRATIVE EXPENSES.

9 § 9501. SCOPE OF CHAPTER.

10 THIS CHAPTER RELATES TO INDEPENDENT COUNSEL AUTHORIZATION.

11 § 9502. DEFINITIONS.

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

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

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

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

22 "REQUESTING JUDGE." A PRESIDENT JUDGE OF A COURT OF COMMON <--
23 PLEAS, OR A JUDGE OF AN INTERMEDIATE COURT SITTING IN THE
24 COURT'S ORIGINAL JURISDICTION, WHO APPLIES FOR THE APPOINTMENT
25 OF A SPECIAL INVESTIGATIVE COUNSEL TO INVESTIGATE A CONTEMPT OF
26 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~~ ON 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 WITH APPROPRIATE JURISDICTION RECEIVES INFORMATION THAT <--
24 ANY PERSON DESCRIBED IN SUBSECTIONS (B) (1.1), (B) (2), (B) (3) OR
25 (B) (4) MAY HAVE COMMITTED AN OFFENSE WHICH IS CLASSIFIED HIGHER <--
26 THAN A SUMMARY OFFENSE REGARDLESS OF WHETHER OR NOT THE
27 INDIVIDUAL ACTED IN CONCERT WITH A PERSON DESCRIBED IN
28 SUBSECTION (B) (1).

29 (C) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR
30 PRELIMINARY INVESTIGATION.--IN DETERMINING UNDER SUBSECTION (A)

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

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

- 29 (1) THERE HAS BEEN A CRIMINAL CONTEMPT OF COURT;
30 (2) INVESTIGATION BY A PROSECUTOR MAY BE NECESSARY TO

1 ADDRESS A BREACH IN THE SANCTITY OF COURT PROCEEDINGS; AND

2 (3) THE PROSECUTOR WITH STATUTORY AUTHORITY TO CONDUCT
3 THE INVESTIGATION HAS OR IS LIKELY TO HAVE A CONFLICT OF
4 INTEREST.

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

10 § 9513. CONDUCT OF PRELIMINARY INVESTIGATION.

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

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

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

29 (2) THE SPECIAL INVESTIGATIVE COUNSEL SHALL NOT BASE A
30 DETERMINATION UNDER THIS CHAPTER THAT INFORMATION WITH

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

11 (C) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.--THE
12 SPECIAL INVESTIGATIVE COUNSEL MAY APPLY TO THE PANEL FOR A
13 SINGLE EXTENSION, FOR A PERIOD OF NO MORE THAN 60 DAYS, OF THE
14 90-DAY PERIOD REFERRED TO IN SUBSECTION (A). THE PANEL MAY, UPON
15 A SHOWING OF GOOD CAUSE, GRANT THE EXTENSION.

16 § 9514. DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.

17 (A) NOTIFICATION OF PANEL.--IF THE SPECIAL INVESTIGATIVE
18 COUNSEL UPON COMPLETION OF A PRELIMINARY INVESTIGATION UNDER
19 THIS CHAPTER DETERMINES THAT THERE ARE NO REASONABLE GROUNDS TO
20 BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED, THE SPECIAL
21 INVESTIGATIVE COUNSEL SHALL PROMPTLY SO NOTIFY THE PANEL.

22 (B) FORM OF NOTIFICATION.--THE NOTIFICATION SHALL CONTAIN A
23 SUMMARY OF THE INFORMATION RECEIVED, A SUMMARY OF THE RESULTS OF
24 THE PRELIMINARY INVESTIGATION AND ALL MATERIALS COLLECTED AS
25 PART OF THE PRELIMINARY INVESTIGATION. THE SUMMARIES SHALL BE
26 CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE. THE SUMMARIES
27 SHALL BE CONSIDERED AN EXCEPTION FOR THE PURPOSES OF SECTION
28 708(B)(16) OF THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN
29 AS THE RIGHT-TO-KNOW LAW.

30 § 9515. DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.

1 (A) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.--THE
2 SPECIAL INVESTIGATIVE COUNSEL SHALL APPLY TO THE PANEL FOR THE
3 APPOINTMENT OF AN INDEPENDENT COUNSEL IF THE SPECIAL
4 INVESTIGATIVE COUNSEL, UPON COMPLETION OF A PRELIMINARY
5 INVESTIGATION UNDER THIS CHAPTER, DETERMINES THAT THERE ARE
6 REASONABLE GROUNDS TO BELIEVE THAT FURTHER INVESTIGATION IS
7 WARRANTED.

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

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

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

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

28 § 9516. CONTENTS OF APPLICATION.

29 ANY APPLICATION FOR THE APPOINTMENT OF AN INDEPENDENT COUNSEL
30 UNDER THIS CHAPTER SHALL CONTAIN SUFFICIENT INFORMATION TO

1 ASSIST THE PANEL IN SELECTING AN INDEPENDENT COUNSEL AND IN
2 DEFINING THAT INDEPENDENT COUNSEL'S PROSECUTORIAL JURISDICTION
3 SO THAT THE INDEPENDENT COUNSEL HAS ADEQUATE AUTHORITY TO FULLY
4 INVESTIGATE AND PROSECUTE THE SUBJECT MATTER AND ALL MATTERS
5 RELATED TO THAT SUBJECT MATTER.

6 § 9517. 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. A PERSON WHO
22 IS SERVING AS A SPECIAL INVESTIGATIVE COUNSEL MAY NOT BE
23 APPOINTED OR SERVE AS AN INDEPENDENT COUNSEL IN THE MATTER
24 FOR WHICH THE PERSON HAD BEEN APPOINTED TO INVESTIGATE AS
25 SPECIAL INVESTIGATIVE COUNSEL. IF AN INDEPENDENT COUNSEL IS
26 APPOINTED, THE INDEPENDENT COUNSEL MAY ONLY ACCEPT THE
27 APPOINTMENT WHEN THE 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 AN OFFENSE CLASSIFIED HIGHER
7 THAN A SUMMARY OFFENSE OR A CONTEMPT OF COURT WHICH MAY ARISE
8 OUT OF THE INVESTIGATION WITH RESPECT TO WHICH THE SPECIAL
9 INVESTIGATIVE COUNSEL'S REQUEST WAS MADE.

10 (4) THE PANEL SHALL DISCLOSE THE IDENTITY OF THE
11 INDEPENDENT COUNSEL UPON APPOINTMENT.

12 (B) EXPANSION OF JURISDICTION.--

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

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

1 (3) IF THE SPECIAL INVESTIGATIVE COUNSEL DETERMINES,
2 AFTER ACCORDING GREAT WEIGHT TO THE RECOMMENDATIONS OF THE
3 INDEPENDENT COUNSEL, THAT THERE ARE NO REASONABLE GROUNDS TO
4 BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED, THE SPECIAL
5 INVESTIGATIVE COUNSEL SHALL PROMPTLY NOTIFY THE PANEL.

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

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

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

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

26 (C) RETURN FOR FURTHER EXPLANATION.--UPON RECEIPT OF A
27 NOTIFICATION UNDER THIS SUBCHAPTER THAT THERE ARE NO REASONABLE
28 GROUNDS TO BELIEVE THAT FURTHER INVESTIGATION IS WARRANTED WITH
29 RESPECT TO INFORMATION RECEIVED UNDER THIS CHAPTER, THE PANEL
30 SHALL HAVE NO AUTHORITY TO OVERRULE THIS DETERMINATION BUT MAY

1 RETURN THE MATTER TO THE SPECIAL INVESTIGATIVE COUNSEL FOR
2 FURTHER EXPLANATION OF THE REASONS FOR THE DETERMINATION.

3 (D) VACANCIES.--IF A VACANCY IN OFFICE ARISES BY REASON OF
4 THE RESIGNATION, DEATH OR REMOVAL OF AN INDEPENDENT COUNSEL, THE
5 PANEL SHALL APPOINT AN INDEPENDENT COUNSEL TO COMPLETE THE WORK
6 OF THE INDEPENDENT COUNSEL WHOSE RESIGNATION, DEATH OR REMOVAL
7 CAUSED THE VACANCY, EXCEPT THAT, IN THE CASE OF A VACANCY
8 ARISING BY REASON OF THE REMOVAL OF AN INDEPENDENT COUNSEL, THE
9 PANEL MAY APPOINT AN ACTING INDEPENDENT COUNSEL TO SERVE UNTIL
10 ANY JUDICIAL REVIEW OF THE REMOVAL IS COMPLETED.

11 § 9518. DISCLOSURE OF INFORMATION.

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

26 SUBCHAPTER C

27 AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

28 SEC.

29 9531. AUTHORITIES.

30 9532. COMPENSATION AND TRAVEL EXPENSES.

1 9533. ADDITIONAL PERSONNEL.
2 9534. ASSISTANCE OF PENNSYLVANIA STATE POLICE.
3 9535. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.
4 9536. DISMISSAL OF MATTERS.
5 9537. REPORTS BY INDEPENDENT COUNSEL.
6 9538. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.
7 9539. STANDARDS OF CONDUCT.
8 9540. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.
9 9541. COST CONTROLS AND ADMINISTRATIVE SUPPORT.
10 9542. LEGISLATIVE OVERSIGHT.
11 9543. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF OFFICE.
12 9544. AUDITS.
13 9545. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.
14 9546. VENUE.
15 § 9531. AUTHORITIES.

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

26 (1) CONDUCTING PROCEEDINGS BEFORE GRAND JURIES AND OTHER
27 INVESTIGATIONS.

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

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

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

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

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

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

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

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

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

29 § 9532. COMPENSATION AND TRAVEL EXPENSES.

30 AN INDEPENDENT COUNSEL APPOINTED UNDER THIS CHAPTER SHALL

1 RECEIVE COMPENSATION AT THE PER DIEM RATE EQUAL TO THE ANNUAL
2 RATE OF BASIC PAY PAYABLE TO THE ATTORNEY GENERAL. AN
3 INDEPENDENT COUNSEL AND PERSONS APPOINTED UNDER SECTION 9533
4 (RELATING TO ADDITIONAL PERSONNEL) SHALL BE ENTITLED TO THE
5 PAYMENT OF TRAVEL EXPENSES.
6 § 9533. ADDITIONAL PERSONNEL.

7 FOR THE PURPOSES OF CARRYING OUT THE DUTIES OF THE OFFICE OF
8 INDEPENDENT COUNSEL, THE INDEPENDENT COUNSEL MAY APPOINT, FIX
9 THE COMPENSATION AND ASSIGN THE DUTIES OF THE EMPLOYEES THE
10 INDEPENDENT COUNSEL CONSIDERS NECESSARY, INCLUDING, BUT NOT
11 LIMITED TO, INVESTIGATORS, ATTORNEYS AND NECESSARY EXPERTS TO
12 ASSIST WITH THE CRIMINAL INVESTIGATION. THE POSITIONS OF THESE
13 EMPLOYEES ARE EXEMPTED FROM THE COMPETITIVE SERVICE. EMPLOYEES
14 SHALL BE COMPENSATED AT LEVELS NOT TO EXCEED THOSE PAYABLE FOR
15 COMPARABLE POSITIONS IN THE OFFICE OF ATTORNEY GENERAL.
16 § 9534. ASSISTANCE OF PENNSYLVANIA STATE POLICE.

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

23 ~~(B) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT~~ <--
24 ~~COUNSEL. UPON THE REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY~~
25 ~~SHALL APPROPRIATE THE NECESSARY FUNDS TO THE STATE TREASURER FOR~~
26 ~~THE USE AND OPERATION IN EXECUTING THE DUTIES AND~~
27 ~~RESPONSIBILITIES OF THE POSITION OF INDEPENDENT COUNSEL. UPON~~
28 ~~THE REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY SHALL~~
29 ~~APPROPRIATE THE NECESSARY FUNDS TO THE PENNSYLVANIA STATE POLICE~~
30 ~~FOR COSTS INCURRED WHEN RENDERING ASSISTANCE TO THE INDEPENDENT~~

~~1 COUNSEL AS PROVIDED FOR UNDER SUBSECTION (A). THE STATE
2 TREASURER SHALL SUBMIT TO THE GENERAL ASSEMBLY, NO LATER THAN 30
3 DAYS AFTER THE END OF EACH FISCAL YEAR, A REPORT ON AMOUNTS PAID
4 DURING THAT FISCAL YEAR FOR EXPENSES OF INVESTIGATIONS AND
5 PROSECUTIONS BY INDEPENDENT COUNSEL. EACH REPORT SHALL INCLUDE A
6 STATEMENT OF ALL PAYMENTS MADE FOR ACTIVITIES OF INDEPENDENT
7 COUNSEL.~~

8 § 9535. REFERRAL OF OTHER MATTERS TO INDEPENDENT COUNSEL.

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

13 § 9536. DISMISSAL OF MATTERS.

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

17 § 9537. REPORTS BY INDEPENDENT COUNSEL.

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

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

27 (2) BEFORE THE TERMINATION OF THE INDEPENDENT COUNSEL'S
28 OFFICE UNDER SECTION 9543(B) (RELATING TO REMOVAL OF
29 INDEPENDENT COUNSEL AND TERMINATION OF OFFICE), FILE A FINAL
30 REPORT WITH THE PANEL, SETTING FORTH FULLY AND COMPLETELY A

1 DESCRIPTION OF ALL PROSECUTIONS. ALL OTHER INFORMATION SHALL
2 BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE.

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

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

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

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

25 § 9538. INDEPENDENCE FROM OFFICE OF ATTORNEY GENERAL.

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

30 § 9539. STANDARDS OF CONDUCT.

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

13 (B) POSTEMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND
14 APPOINTEES.--

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

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

28 (C) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF
29 INDEPENDENT COUNSEL.--ANY PERSON WHO IS ASSOCIATED WITH A FIRM
30 WITH WHICH AN INDEPENDENT COUNSEL IS ASSOCIATED OR BECOMES

1 ASSOCIATED AFTER TERMINATION OF SERVICE OF THAT INDEPENDENT
2 COUNSEL UNDER THIS CHAPTER MAY NOT FOR ONE YEAR FOLLOWING THE
3 TERMINATION REPRESENT ANY PERSON IN ANY MATTER INVOLVING ANY
4 INVESTIGATION OR PROSECUTION UNDER THIS CHAPTER.

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

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

10 "FIRM." A LAW FIRM, WHETHER ORGANIZED AS A PARTNERSHIP OR
11 CORPORATION.

12 § 9540. CUSTODY OF RECORDS OF INDEPENDENT COUNSEL.

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

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

25 § 9541. COST CONTROLS AND ADMINISTRATIVE SUPPORT.

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

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

28 (2) AUTHORIZE ONLY REASONABLE AND LAWFUL EXPENDITURES.

29 (3) PROMPTLY UPON TAKING OFFICE ASSIGN TO A SPECIFIC
30 EMPLOYEE THE DUTY OF CERTIFYING THAT EXPENDITURES OF THE

1 INDEPENDENT COUNSEL ARE REASONABLE AND MADE IN ACCORDANCE
2 WITH LAW.

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

8 § 9542. LEGISLATIVE OVERSIGHT.

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

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

29 § 9543. REMOVAL OF INDEPENDENT COUNSEL AND TERMINATION OF
30 OFFICE.

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

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

10 (2) IF AN INDEPENDENT COUNSEL IS REMOVED FROM OFFICE,
11 THE PANEL SHALL PROMPTLY SUBMIT TO THE JUDICIARY COMMITTEE OF
12 THE SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF
13 REPRESENTATIVES A REPORT SPECIFYING THE FACTS FOUND AND THE
14 ULTIMATE GROUNDS FOR THE REMOVAL. THE COMMITTEES MAY MAKE
15 AVAILABLE TO THE PUBLIC THE REPORT, EXCEPT THAT EACH
16 COMMITTEE MAY, IF NECESSARY TO PROTECT THE RIGHTS OF ANY
17 INDIVIDUAL NAMED IN THE REPORT OR TO PREVENT UNDUE
18 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 9537(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 THE CIVIL ACTION OR ANY APPEAL OF A
28 DECISION IN THE 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 9537.

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, INCLUDING PERSONNEL COSTS UNDER SECTIONS 9532
14 (RELATING TO COMPENSATION AND TRAVEL EXPENSES) AND 9533
15 (RELATING TO ADDITIONAL PERSONNEL), HAVE REACHED \$2,000,000,
16 WHICHEVER OCCURS FIRST, AND AT THE END OF EACH SUCCEEDING
17 ONE-YEAR PERIOD.

18 § 9544. AUDITS.

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

29 § 9545. RELATIONSHIP WITH OFFICE OF ATTORNEY GENERAL.

30 WHENEVER A MATTER IS IN THE PROSECUTORIAL JURISDICTION OF AN

1 INDEPENDENT COUNSEL OR HAS BEEN ACCEPTED BY AN INDEPENDENT
2 COUNSEL UNDER SECTION 9535 (RELATING TO REFERRAL OF OTHER
3 MATTERS TO INDEPENDENT COUNSEL), THE OFFICE OF ATTORNEY GENERAL,
4 THE ATTORNEY GENERAL, ALL OTHER OFFICERS AND EMPLOYEES OF THE
5 OFFICE OF ATTORNEY GENERAL AND ANY DISTRICT ATTORNEY SHALL
6 SUSPEND ALL INVESTIGATIONS AND PROCEEDINGS REGARDING THAT MATTER
7 AND SHALL TURN OVER TO THE INDEPENDENT COUNSEL ALL MATERIALS,
8 FILES AND OTHER DATA RELATING TO THAT MATTER.
9 § 9546. VENUE.

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

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