

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1382 Session of 2019

INTRODUCED BY SIMS, LEE, FRANKEL, RABB, KINSEY, HILL-EVANS,
 HARRIS, KENYATTA, SCHLOSSBERG, DONATUCCI, A. DAVIS,
 CALTAGIRONE, WEBSTER, McCLINTON, KIRKLAND, FIEDLER, DAWKINS
 AND BULLOCK, MAY 1, 2019

REFERRED TO COMMITTEE ON JUDICIARY, MAY 1, 2019

AN ACT

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

1 prosecutions.

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

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

7 Section 102. Definitions.

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

11 * * *

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

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

18 Section 205. Criminal prosecutions.

19 * * *

20 (e) Special prosecutor.--

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

30 (2) A special prosecutor must have a minimum of three

1 years' experience in either criminal defense or criminal
2 prosecutions in this Commonwealth.

3 (3) The special prosecutor shall have the sole authority
4 to investigate the circumstances and to prosecute under this
5 subsection if the circumstances warrant.

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

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

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

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

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

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

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

30 (vii) Receiving appropriate security clearances and,

1 if necessary, contesting in court, including, where
2 appropriate, participating in an in camera proceeding,
3 any claim of privileges or attempt to withhold evidence
4 on grounds of security.

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

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

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

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

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

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