

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 140 Session of 2023

INTRODUCED BY LANGERHOLC, FARRY, VOGEL, PENNYCUICK, LAUGHLIN, REGAN, COLEMAN, PHILLIPS-HILL, AUMENT, HUTCHINSON, DUSH, MASTRIANO, BROOKS AND ROTHMAN, APRIL 24, 2023

SENATOR LANGERHOLC, TRANSPORTATION, AS AMENDED, APRIL 26, 2023

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania
2 Consolidated Statutes, in metropolitan transportation
3 authorities, providing for special prosecutor for mass
4 transit.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 74 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 1786. Special prosecutor for mass transit.

10 Within 30 days of the effective date of this section, the
11 Attorney General shall appoint a special prosecutor to
12 investigate and institute criminal proceedings for a violation
13 of the laws of this Commonwealth occurring within a public
14 transportation authority that serves as the primary provider of
15 public passenger transportation in the county of the first class
16 in accordance with this section. The following shall apply to
17 the special prosecutor:

18 (1) The special prosecutor must:

1 (i) Be a member in good standing of the bar of this
2 Commonwealth for a minimum of 10 years.

3 (ii) Have a minimum of five years of experience in
4 criminal prosecutions in this Commonwealth.

5 (iii) Not have been employed by the district
6 attorney's office in a county of the first class or the
7 Office of Attorney General within six years of the
8 effective date of this section.

9 (iv) Possess the character and fitness compatible
10 with the standards expected to be observed by members of
11 the bar of this Commonwealth.

12 (v) Be a resident of the county in which the special
13 prosecutor shall serve.

14 (2) Notwithstanding any other provision of law or
15 regulation, a special prosecutor shall have the authority to
16 investigate and prosecute, and has jurisdiction over, any
17 criminal matter involving an alleged violation of the laws of
18 this Commonwealth occurring within a public transportation
19 authority that serves as the primary provider of public
20 passenger transportation in the county of the first class.
21 The special prosecutor's prosecutorial jurisdiction shall
22 include the power and independent authority to exercise all
23 investigative and prosecutorial functions and powers of an
24 office of the district attorney of a county of the first
25 class and any other officer or employee of the office of the
26 district attorney in the county of the first class. The
27 special prosecutor's authority shall include, but not be
28 limited to, the following:

29 (i) Investigative and prosecutorial functions and
30 powers shall include the following:

1 (A) Conducting proceedings before grand juries
2 and other investigations.

3 (B) Participating in court proceedings and
4 engaging in any litigation, including civil and
5 criminal matters, that the special prosecutor
6 considers necessary.

7 (C) Initiating and conducting prosecutions in
8 any court of competent jurisdiction, appealing any
9 decision of a court in a proceeding in which the
10 special prosecutor participates and handling all
11 aspects of any case in the name of the Commonwealth.

12 (D) Reviewing all documentary evidence available
13 from any source.

14 (E) Making applications to a State court for a
15 grant of immunity to a witness, consistent with
16 applicable statutory requirements, or for warrants,
17 subpoenas or other court orders.

18 (ii) (Reserved).

19 (3) For the purposes of carrying out the duties of the
20 Office of Special Prosecutor, a special prosecutor may use
21 facilities, resources and personnel of the Attorney General,
22 including investigators, attorneys and necessary experts, to
23 assist with a criminal investigation or prosecution. A
24 special prosecutor may request assistance from the
25 Pennsylvania State Police in carrying out the functions of
26 the special prosecutor. The Pennsylvania State Police shall <--
27 MAY provide assistance, which may include the use of <--
28 resources and personnel necessary to perform the duties of
29 the special prosecutor.

30 (4) A special prosecutor may assert preemptive

1 prosecutorial jurisdiction over any criminal actions or
2 proceedings involving alleged violations of the laws of this
3 Commonwealth occurring within a public transportation
4 authority that serves as the primary provider of public
5 passenger transportation in the county of the first class.

6 The following shall apply:

7 (i) An assertion of preemptive prosecutorial
8 jurisdiction under this section shall be within the sole
9 discretion of the special prosecutor.

10 (ii) In cases in which a special prosecutor asserts
11 preemptive prosecutorial jurisdiction under this section,
12 no other prosecuting entity for the Commonwealth shall
13 have authority to act, except as authorized by the
14 special prosecutor.

15 (iii) A special prosecutor may not assert preemptive
16 prosecutorial jurisdiction under this section in a case
17 where jurisdiction also exists in a county other than a
18 county of the first class unless the special prosecutor
19 requests in writing to the district attorney in the
20 county other than the county of the first class to assert
21 preemptive prosecutorial jurisdiction and the district
22 attorney in the county other than the county of the first
23 class accepts the request in writing.

24 (iv) When a special prosecutor asserts preemptive
25 prosecutorial jurisdiction under this subparagraph, the
26 office of the district attorney in a county of the first
27 class shall suspend all investigations and proceedings
28 regarding the matter and shall turn over to the special
29 prosecutor all materials, files and other data relating
30 to the matter.

1 (v) Notwithstanding any other law or court rule,
2 prior approval of the district attorney of a county of
3 the first class or an employee of the district attorney
4 of a county of the first class shall not be required
5 prior to the filing of any criminal complaint or arrest
6 warrant affidavit, or both, involving any violation of
7 the laws of this Commonwealth occurring within a public
8 transportation authority that serves as the primary
9 provider of public passenger transportation in the county
10 of the first class.

11 (5) No person charged with a violation of the law by a
12 special prosecutor shall have standing to challenge the
13 authority of the special prosecutor to prosecute the case. If
14 a challenge is made, the challenge shall be dismissed and no
15 relief shall be available in the courts of this Commonwealth
16 to the individual making the challenge.

17 (6) If a vacancy in office arises by reason of the
18 resignation, death or removal for any other reason of a
19 special prosecutor, the Attorney General shall appoint a
20 replacement within 30 days.

21 (7) Each law enforcement agency with jurisdiction in a
22 county of the first class shall notify a special prosecutor
23 of any arrest or other criminal action or proceeding
24 involving an alleged violation of the laws of this
25 Commonwealth occurring within a public transportation
26 authority that serves as the primary provider of public
27 passenger transportation in the county of the first class
28 within 48 hours of the arrest or of instituting the action or
29 proceeding.

30 (8) No new action or proceeding may be initiated by a

1 special prosecutor under this section after December 31,
2 2026. Notice of final disposition of the last remaining
3 action or proceeding initiated under this section prior to
4 December 31, 2026, shall be transmitted to the Legislative
5 Reference Bureau for publication in the next available issue
6 of the Pennsylvania Bulletin.

7 (9) The special prosecutor shall compile reports related
8 to the criminal activity and administrative proceedings
9 within a public transportation authority that serves as the
10 primary provider of public passenger transportation in the
11 county of the first class, to which the following shall
12 apply:

13 (i) An initial report shall be submitted no later
14 than 90 days following appointment of the special
15 prosecutor. Following the initial report, annual reports
16 shall be submitted to the General Assembly.

17 (ii) Reports shall be submitted to the following:

18 (A) The President pro tempore of the Senate.

19 (B) The Speaker of the House of Representatives.

20 (C) The chairperson and minority chairperson of
21 the Judiciary Committee of the Senate.

22 (D) The chairperson and minority chairperson of
23 the Judiciary Committee of the House of
24 Representatives.

25 (E) The chairperson and minority chairperson of
26 the Transportation Committee of the Senate.

27 (F) The chairperson and minority chairperson of
28 the Transportation Committee of the House of
29 Representatives.

30 (iii) Each report shall contain the following

1 information for the period of time between each report:

2 (A) The total number of arrests for alleged
3 criminal activity within a public transportation
4 authority that serves as the primary provider of
5 public passenger transportation in the county of the
6 first class.

7 (B) The total number of bills of information
8 filed for alleged violations within a public
9 transportation authority that serves as the primary
10 provider of public passenger transportation in the
11 county of the first class.

12 (C) The total number of convictions resulting
13 from prosecutions by the special prosecutor.

14 (D) Each sentence imposed for each conviction
15 for a crime committed within a public transportation
16 authority that serves as the primary provider of
17 public passenger transportation in the county of the
18 first class.

19 (10) A county of the first class in which a special
20 prosecutor is appointed under this section shall reimburse
21 the special prosecutor and the Office of Attorney General for
22 any expenses incurred while investigating or prosecuting an
23 alleged violation of the laws of this Commonwealth occurring
24 within a public transportation authority that serves as the
25 primary provider of public passenger transportation in the
26 county of the first class. For reimbursement, the special
27 prosecutor shall submit an itemized statement of expenses of
28 the special prosecutor and Office of Attorney General to the
29 treasurer of the county of the first class, who shall pay the
30 expenses from the general funds of the county of the first

1 class within 30 days of receipt of the itemized statement.
2 Reimbursement under this section may not exceed actual
3 expenses incurred in prosecuting any action, including the
4 amount necessary to compensate the special prosecutor.

5 (11) A special prosecutor appointed under this section
6 shall receive compensation to be paid by the Office of
7 Attorney General at the per diem rate equal to the annual
8 rate of compensation payable to the district attorney of a
9 county of the first class. A special prosecutor shall be
10 entitled to the payment of travel expenses within this
11 Commonwealth.

12 (12) Notwithstanding section 1401(p) of the act of
13 August 9, 1955 (P.L.323, No.130), known as The County Code,
14 during the period in which a special prosecutor serves in a
15 county of the first class, the Commonwealth may not reimburse
16 that county for the salary of the district attorney of that
17 county. An amount equal to the reimbursement that would have
18 been made if no special prosecutor had been appointed shall
19 be used to reimburse the Office of Attorney General for the
20 compensation of the special prosecutor and any expenses
21 incurred for the purpose of carrying out the duties of the
22 special prosecutor.

23 (13) This section shall expire upon publication of the
24 notice under paragraph (8).

25 (14) The county of the first class, the district
26 attorney of the first class and the public transportation
27 authority that serves as the primary provider of public
28 passenger transportation in the county of the first class
29 must comply with this section until this section expires
30 under paragraph (13).

1 Section 2. This act shall take effect immediately.