

Public Law 97-409
97th Congress

An Act

To change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes.

Jan. 3, 1983

[S. 2059]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act Amendments of 1982".

Ethics in
Government Act
Amendments of
1982.

SEC. 2. (a)(1) Chapter 39 of title 28 of the United States Code is amended by—

28 USC 1 note.
28 USC 591 *et*
seq.

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel"; and

(B) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The tables of chapters for title 28 of the United States Code and for part II of title 28 are amended by striking out the item relating to chapter 39 and inserting in lieu thereof the following new item: "39. Independent Counsel."

(b)(1) Section 49 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel";

(B) striking out "special prosecutors" wherever it appears and inserting in lieu thereof "independent counsels"; and

(C) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The item for section 49 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "special prosecutors" and inserting in lieu thereof "independent counsels".

(c) Title VI of the Ethics in Government Act of 1978 is amended by—

28 USC prec. 591,
591.

(1) striking out "SPECIAL PROSECUTOR" in the heading for section 601 and inserting in lieu thereof "INDEPENDENT COUNSEL";

28 USC 592, 594,
596.

(2) striking out "special prosecutors" in subsection (c) of section 601 and inserting in lieu thereof "independent counsels"; and

28 USC 591 note.

(3) striking out "SPECIAL PROSECUTORS" in the heading for section 602 and inserting in lieu thereof "INDEPENDENT COUNSELS".

28 USC 49.

SEC. 3. Paragraphs (3) through (6) of subsection (b) of section 591 of title 28 of the United States Code are amended to read as follows:

"(3) any individual working in the Executive Office of the President who is compensated at or above a rate equivalent to level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice compensated at a rate at or

above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who held any office or position described in any of paragraphs (1) through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than two years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after such individual leaves office;

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President."

SEC. 4. (a)(1) Section 591(a) of title 28 of the United States Code is amended by striking out "specific information" and by inserting in lieu thereof "information sufficient to constitute grounds to investigate".

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

Investigation.

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest."

(b) Section 592(a) of title 28 of the United States Code is amended to read as follows:

Preliminary investigation.

"(a)(1) Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a) or (c) of section 591 of this title, the Attorney General shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. In determining whether grounds to investigate exist, the Attorney General shall consider—

28 USC 591.

"(A) the degree of specificity of the information received, and

"(B) the credibility of the source of the information.

Limitation of authority.

"(2) In conducting preliminary investigations pursuant to this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas."

(c) Section 592(b)(1) of title 28 of the United States Code is amended by striking out "that the matter is so unsubstantiated that no further investigation or prosecution is warranted" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted".

(d) Section 592(c)(1) of title 28 of the United States Code is amended by—

(1) striking out “finds that the matter warrants further investigation or prosecution” and inserting in lieu thereof “finds reasonable grounds to believe that further investigation or prosecution is warranted”;

(2) striking out “that the matter is so unsubstantiated as not to warrant further investigation or prosecution” and inserting in lieu thereof “that there are no reasonable grounds to believe that further investigation or prosecution is warranted”; and

(3) adding at the end thereof the following new sentence: “In determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.”.

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out “specific information” and inserting in lieu thereof “information sufficient to constitute grounds to investigate”; and

(2) in clause (B) by striking out “such information warrants” and inserting in lieu thereof “reasonable grounds exist to warrant”.

SEC. 5. Section 593 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

“(f) Upon a showing of good cause by the Attorney General, the division of the court may grant a single extension of the preliminary investigation conducted pursuant to section 592(a) of this title for a period not to exceed sixty days.

“(g) Upon request by the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorney’s fees incurred by such subject during such investigation if—

“(1) no indictment is brought against such subject; and

“(2) the attorney’s fees would not have been incurred but for the requirements of this chapter.”.

SEC. 6. (a) Subsection (a) of section 594 of title 28 of the United States Code is amended by—

(1) striking out “and” at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and “and”; and

(3) adding after paragraph (9) the following:

“(10) consulting with the United States Attorney for the district in which the violation was alleged to have occurred.”.

(b) Subsection (f) of section 594 of title 28 of the United States Code is amended by—

(1) striking out “to the extent that such special prosecutor deems appropriate” and inserting in lieu thereof “except where not possible”; and

(2) striking out “written policies” and inserting in lieu thereof “written or other established policies”.

(c) Section 594 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

“(g) The independent counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies

Preliminary investigation, extension.

Attorney fees, reimbursement.

Dismissal authority.

of the Department of Justice with respect to the enforcement of criminal laws.”

(d) Paragraph (1) of subsection (a) of section 596 of title 28 of the United States Code is amended by striking out “extraordinary impropriety” and inserting in lieu thereof “good cause”.

SEC. 7. Section 598 of title 28 of the United States Code is amended by striking out “after the date of enactment of this chapter” and inserting in lieu thereof “after the date of enactment of the Ethics in Government Act Amendments of 1982”.

Approved January 3, 1983.

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LEGISLATIVE HISTORY—S. 2059:

SENATE REPORT No. 97-496 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Aug. 12, considered and passed Senate.

Dec. 13, considered and passed House, amended.

Dec. 16, Senate agreed to House amendments.

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