

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, ROTHMAN AND MARTIN, APRIL 24, 2023

AS AMENDED ON SECOND CONSIDERATION, MAY 1, 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 (A) SPECIAL PROSECUTOR.--Within 30 days of the effective <--
11 date of this section, the Attorney General shall appoint a
12 special prosecutor to investigate and institute criminal
13 proceedings for a violation of the laws of this Commonwealth
14 occurring within a public transportation authority that serves
15 as the primary provider of public passenger transportation in
16 the county of the first class in accordance with this section.

17 The following shall apply to 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 OR ANY LAW ENFORCEMENT AGENCY WITH <--
26 APPROPRIATE JURISDICTION in carrying out the functions of the
27 special prosecutor. The Pennsylvania State Police OR ANY LAW <--
28 ENFORCEMENT AGENCY WITH APPROPRIATE JURISDICTION may provide
29 assistance, which may include the use of resources and
30 personnel necessary to perform the duties of the special

1 prosecutor.

2 (4) A special prosecutor may assert preemptive
3 prosecutorial jurisdiction over any criminal actions or
4 proceedings involving alleged violations of the laws of this
5 Commonwealth occurring within a public transportation
6 authority that serves as the primary provider of public
7 passenger transportation in the county of the first class.

8 The following shall apply:

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

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

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

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

1 prosecutor all materials, files and other data relating
2 to the matter.

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

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

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

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

1 proceeding.

2 (8) No new action or proceeding may be initiated by a
3 special prosecutor under this section after December 31,
4 2026. Notice of final disposition of the last remaining
5 action or proceeding initiated under this section prior to
6 December 31, 2026, shall be transmitted to the Legislative
7 Reference Bureau for publication in the next available issue
8 of the Pennsylvania Bulletin.

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

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

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

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

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

22 (C) The chairperson and minority chairperson of
23 the Judiciary Committee of the Senate.

24 (D) The chairperson and minority chairperson of
25 the Judiciary Committee of the House of
26 Representatives.

27 (E) The chairperson and minority chairperson of
28 the Transportation Committee of the Senate.

29 (F) The chairperson and minority chairperson of
30 the Transportation Committee of the House of

1 Representatives.

2 (iii) Each report shall contain the following
3 information for the period of time between each report:

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

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

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

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

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

1 treasurer of the county of the first class, who shall pay the
2 expenses from the general funds of the county of the first
3 class within 30 days of receipt of the itemized statement.
4 Reimbursement under this section may not exceed actual
5 expenses incurred in prosecuting any action, including the
6 amount necessary to compensate the special prosecutor.

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

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

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

27 (14) The ATTORNEY GENERAL, THE county of the first
28 class, the district attorney of the first class and the
29 public transportation authority that serves as the primary
30 provider of public passenger transportation in the county of

<--

1 the first class must comply with this section until this
2 section expires under paragraph (13).

3 (15) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A <--
4 GOVERNING BODY OF A POLITICAL SUBDIVISION OR PUBLIC OFFICIAL
5 MAY NOT ENACT OR ENFORCE AN ORDINANCE, EXECUTIVE ORDER OR
6 DIRECTIVE OR TAKE ANY OTHER OFFICIAL ACTION THAT WOULD BE
7 INCONSISTENT WITH THE PROVISIONS OF THIS SECTION OR DIRECT A
8 LAW ENFORCEMENT AGENCY WITH APPROPRIATE JURISDICTION TO NOT
9 ASSIST THE SPECIAL PROSECUTOR IF ABLE. AN ORDINANCE,
10 EXECUTIVE ORDER OR DIRECTIVE OR ANY OTHER OFFICIAL ACTION IN
11 VIOLATION OF THIS SECTION SHALL BE NULL AND VOID.

12 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
13 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
14 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

15 "LAW ENFORCEMENT AGENCY." ANY OF THE FOLLOWING:

16 (1) A PUBLIC AGENCY OF A POLITICAL SUBDIVISION HAVING
17 GENERAL POLICE POWERS AND CHARGED WITH MAKING ARRESTS IN
18 CONNECTION WITH THE ENFORCEMENT OF THE CRIMINAL OR TRAFFIC
19 LAWS.

20 (2) A CAMPUS POLICE OR UNIVERSITY POLICE DEPARTMENT, AS
21 USED IN SECTION 2416 OF THE ACT OF APRIL 9, 1929 (P.L.177,
22 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, CERTIFIED
23 BY THE OFFICE OF ATTORNEY GENERAL AS A CRIMINAL JUSTICE
24 AGENCY UNDER THE DEFINITION OF "CRIMINAL JUSTICE AGENCY" IN
25 18 PA.C.S. § 9102 (RELATING TO DEFINITIONS).

26 (3) A RAILROAD OR STREET RAILWAY POLICE DEPARTMENT
27 FORMED WITH OFFICERS COMMISSIONED UNDER 22 PA.C.S. CH. 33
28 (RELATING TO RAILROAD AND STREET RAILWAY POLICE) OR ANY PRIOR
29 STATUTE PROVIDING FOR THE COMMISSIONING.

30 (4) AN AIRPORT AUTHORITY POLICE DEPARTMENT.

1 (5) A COUNTY PARK POLICE FORCE UNDER SECTION 2511(B) OF
2 THE ACT OF AUGUST 9, 1955 (P.L.323, NO.130), KNOWN AS THE
3 COUNTY CODE.

4 Section 2. This act shall take effect immediately.