

Special Prosecutor Act

SECTION 1. This Act shall be known and may be cited as the Special Prosecutor Act of [202X].

(A) Purpose. This Act creates the Office of the Special Prosecutor, a new office within the Office of the Attorney General, who, by proclamation of the Governor, will be given reviewable jurisdiction to file specified criminal charges in a local court.

(B) Definitions. As used in this Act:

(i) “Prosecuting Attorney” means the local elected prosecutor nominally responsible for overseeing the filing and prosecuting of criminal charges within the Prosecuting District.

(ii) “Prosecuting District” means a judicial district, comprising applicable subdivisions, which has primary jurisdiction over criminal proceedings for offenses committed within the political subdivisions therein.

Section 2. A new section of State Code is created, which shall read:

(A) Appointment of Special Prosecutor

(i) [The Governor may, by proclamation, authorize the Attorney General to] [The Attorney General may] appoint one or more special prosecutors to, subject to Section 2(B), exercise the duties of a Prosecuting Attorney in each Prosecuting District in which the homicide rate in such Prosecuting District over the last two previous consecutive calendar years exceeds twice the total homicide rate of the state.

(ii) Each special prosecutor appointed under this Section 2 may serve as the special prosecutor within the Prosecuting District for up to five (5) years.

(iii) An appointment of a special prosecutor may be renewed at the end of the special prosecutor’s term if the conditions in subdivision (i) are satisfied.

(iv) A special prosecutor appointed under this Section 2 must be a licensed attorney in the state and not currently serving as a prosecuting attorney as defined under Section 1(B)(i) and shall not be required to be a current resident in the Prosecuting District to which the special prosecutor is appointed.

(v) The Governor may, by proclamation, rescind any authorization to the Attorney General to appoint one or more special prosecutors in a Prosecuting District.

(B) Duties of the Special Prosecutor

(i) A special prosecutor appointed under this Act may only investigate and prosecute cases involving the following offenses:

(a) Homicide in the first degree;

- (b)** Homicide in the second degree;
- (c)** Assault in the first degree;
- (d)** Assault in the second degree;
- (e)** Robbery in the first degree;
- (f)** Robbery in the second degree;
- (g)** Vehicle hijacking;
- (h)** Drug manufacturing;
- (i)** Drug distribution; or
- (j)** Felony weapons violations.

(ii) For the offenses listed under subdivision (i) of this subsection, a special prosecutor shall have all powers, duties, and responsibilities granted to the Prosecuting Attorney in the Prosecuting District to which the special prosecutor is appointed.

(iii) If an offense leads to criminal charges for which a special prosecutor has jurisdiction under subdivision (i), and the special prosecutor chooses not to commence criminal proceedings, the Prosecuting Attorney may then commence criminal proceedings.

(iv) If an offense leads to criminal charges for which a special prosecutor has jurisdiction under subdivision (i), and the special prosecutor has initiated criminal proceedings for that offense, the special prosecutor shall also have jurisdiction over all other charges associated with the same criminal episode.

(v) After a special prosecutor has filed criminal charges in a case over which it has jurisdiction, the special prosecutor shall continue to have jurisdiction over the entire criminal case regardless of whether the charges are later reduced.

(C) Funding for the Office of the Special Prosecutor

(i) The Attorney General shall use existing appropriations to ensure sufficient funding is available to employ each special prosecutor appointed under this Act, including a sufficient number of assistants, but no more than fifteen full-time employees, and a sufficient number of administrative staff, but no more than fifteen full-time employees, as determined by the Governor by proclamation, with respect to the specific needs identified in the proclamation.

(ii) The Office of the Prosecuting Attorney in a Prosecuting District for which a special prosecutor is appointed under this Act shall reimburse the Attorney General's Office in the full amount of all funds expended by the Attorney General's Office under such appointment.

(a) In the event any Prosecuting Attorney's Office refuses to reimburse the Attorney General's Office as required by this subdivision (ii), the State shall withhold all such amounts due from future state appropriations to the Prosecuting Attorney's Office or the Prosecuting District.

(D) Special Prosecution Task Force

(i) The Office of the Attorney General shall establish a special prosecution division.

(ii) To address matters relating to certain serious or violent crimes, the special prosecution division shall establish within the division a prosecution unit to provide critical assistance to Prosecuting Attorneys.

(iii) At the request of a Prosecuting Attorney, the special prosecutorial division may provide assistance in the prosecution of the crimes within subparagraph (iv), including participation by an assistant attorney general as an assistant prosecutor when so appointed by the Prosecuting Attorney for a term of up to three years.

(iv) The special prosecution division shall be limited to providing assistance in cases involving the following offenses, and any lesser crimes that arise out of the same criminal episode:

(a) Homicide in the first degree;

(b) Homicide in the second degree;

(c) Assault in the first degree;

(d) Assault in the second degree;

(e) Robbery in the first degree;

(f) Robbery in the second degree;

(g) Vehicle hijacking;

(h) Drug manufacturing;

(i) Drug distribution; or

(j) Felony weapons violations.

SECTION 3. Severability and effective date.

(A) Severability. It is the intention of the legislature that the provisions of this section shall be severable. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not

affected, including but not limited to the applicability of this section to the provisions of future agreements subject to this section.

(B) Effective Date. This Act takes effect on [effective date].