For more information on using WESTLAW to supplement your research, see the WESTLAW Electronic Research Guide, which follows the Explanation.

§ 591. Applicability of provisions of this chapter

(a) Preliminary investigation with respect to certain covered persons.—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(b) Persons to whom subsection (a) applies.—The persons referred to in subsection (a) are—

(1) the President and Vice President;

(2) any individual serving in a position listed in section 5312 of title 5;

(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above 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 who is compensated at a rate of pay 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 leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position; and

(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the

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President, and any officer of that committee exercising authority at the national level, during the incumbency of the President.

(c) Preliminary investigation with respect to persons not listed in subsection (b).—The Attorney General may conduct a preliminary investigation in accordance with section 592 if—

(1) the Attorney General receives information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction; and

(2) the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest.

(d) Examination of information to determine need for preliminary investigation.—

(1) Factors to be considered.—In determining under subsection (a) or (c) (or section 592(c)(2)) whether grounds to investigate exist, the Attorney General shall consider only—

(A) the specificity of the information received; and

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

(2) Time period for making determination.—The Attorney General shall determine whether grounds to investigate exist not later than 15 days after the information is first received. If within that 15–day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 15–day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 15–day period, whether the information is specific and from a credible source, the Attorney General shall, at the end of that 15–day period, commence a preliminary investigation with respect to that information.

(e) Recusal of Attorney General.—

(1) When recusal is required.—If information received under this chapter involves the Attorney General or a person with whom the Attorney General has a current or recent personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior officer in the

Department of Justice whom that information does not involve and who does not have a current or recent personal or financial relationship with such person to perform the duties assigned under this chapter to the Attorney General with respect to that information.

(2) Requirements for recusal determination.—The Attorney General shall, before personally making any other determination under this chapter with respect to information received under this chapter, determine under paragraph (1) whether to recuse himself or herself with respect to that information. A determination to recuse shall be in writing, shall identify the facts considered by the Attorney General, and shall set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the information involved.

(Added Pub.L. 95-521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1867, and amended Pub.L. 97-409, §§ 3, 4(a), Jan. 3, 1983, 96 Stat. 2039, 2040; Pub.L. 98-473, Title II, § 228(b), Oct. 12, 1984, 98 Stat. 2030; Pub.L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1293.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1984 Acts. House Report No. 98-1030 and House Conference Report No. 98-1159, see 1984 U.S.Code Cong. and Adm.News, p. 3182.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Subsec. (a). Pub.L. 100-191 added a subsection heading and, in text, substituted a reference to "a preliminary investigation in accordance with section 592" for a former reference to "an investigation pursuant to the provisions of this chapter" and substituted "may have violated any Federal criminal law other than a violation classified as" for "has committed a violation of any Federal criminal law other than a violation constituting".

Subsec. (b). Pub.L. 100-191 added a subsection heading and, in text, re-enacted pars. (1)-(5) substantially without change, in par. (6) substituted a three-year period after the individual leaves the office or position as the maximum covered period for a former covered period of two years after the individual left office, in par. (7) substituted a reference to a person holding an office during the incumbency of one President who continues to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position, for former reference to a person who continued to hold office for not more than 90 days into the term of the next President during the period such person served plus one year after such person left the office, and, in par. (8) deleted language giving the campaign manager or director as examples of a campaign officer exercising authority at the national level.

Subsec. (c). Pub.L. 100-191 added a subsection heading and, in text, substituted provisions authorizing the Attorney General to conduct a preliminary investigation in accordance with section 592 if (1) the Attorney General receives

information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction; and (2) the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest, for former provisions which had directed that whenever the Attorney General received information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section had committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General could conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determined that investigation of such person by the Attorney General or other officer of the Department of Justice might result in a personal, financial, or political conflict of interest.

Subsecs. (d), (e). Pub.L. 100-191 added subsecs. (d) and (e).

1984 Amendments. Subsec. (a). Pub.L. 98-473 substituted "Class B or C misdemeanor or an infraction" for "petty offense".

1983 Amendments. Subsec. (a). Pub.L. 97-409, § 4(a)(1), substituted "information sufficient to constitute grounds to investigate" for "specific information" after "the Attorney General receives".

Subsec. (b)(3). Pub.L. 97-409, § 3, substituted "who is compensated at or above a rate equivalent to level II" for "and compensated at a rate not less than the annual rate of basic pay provided for level IV".

Subsec. (b)(4), (5). Pub.L. 97-409, § 3, redesignated as par. (5) "the Director of Central Intelligence" and all that followed through end of par. (4). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub.L. 97-409, § 3, redesignated former par. (5) as (6) and substituted "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;" for "through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President; and". Former par. (6) redesignated (8).

Subsec. (b)(7). Pub.L. 97-409, § 3, added par. (7).

Subsec. (b)(8). Pub.L. 97-409, § 3, redesignated former par. (6) as (8) and substituted "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" for "any officer of the principal national campaign committee seeking the election or reelection of the President".

Subsec. (c). Pub.L. 97-409, § 4(a)(2), added subsec. (c).

Effective Dates

1987 Acts. Section 6 of Pub.L. 100-191 provided that:

"**(a) In general.**— Subject to subsection (b), the amendments made by this Act [enacting section 599 of this title, amending sections 49 and 591 to 598 of this title, sections 203 and 205 of Pub.L. 95-521 set out in Appendix 4 to Title 5, Government Organization and Employees, and section 202 of Title 18, Crimes and Criminal Procedure, enacting provisions set out as a note under section 1 of this title, and amending provisions set out as a note under this section] take effect on the date of the enactment of this Act [Dec. 15, 1987].

"**(b) Pending proceedings.**— With respect to any proceeding under chapter 39 of title 28, United States Code (before the redesignation of such chapter as chapter 40 by section 144(g) of Public Law 99-554) [this chapter], or under chapter 40 of such title (after such redesignation) [this chapter], which is pending on the date of the enactment of this Act [Dec. 15, 1987], the following shall apply:

"(1) Except as provided in paragraphs (2) and (3), the provisions of

adjudication, where former staff member failed to allege sufficient hardship to warrant anticipatory judicial involvement in ongoing criminal investigation which had not resulted in indictment or criminal prosecution. North v. Walsh, D.D.C.1987, 656 F.Supp. 414.

4. Purpose

Fundamental purpose of this chapter is to ensure that serious allegations of unlawful conduct by federal executive officials are subject to review by counsel independent of any incumbent administration. Dellums v. Smith, D.C.Cal.1984, 577 F.Supp. 1449, reversed on other grounds 797 F.2d 817.

5. Persons or entities subject to investigation

The United States Department of Justice would not be a proper subject for investigation by an independent counsel. In re INSLAW, Inc., 1989, 885 F.2d 880, 280 U.S.App.D.C. 258.

6. Liability for investigation

Two assistant United States attorneys who were acting within scope of their duties concerning investigation of plaintiffs were not liable for defamation when allegations against plaintiffs were publicized by mailing of letter to United States Attorney General informing him of allegations and requesting an investigation pursuant to Ethics in Government Act. Schiavone v. Montuoro, D.C.N.Y. 1984, 587 F.Supp. 66.

7. Judicial review

Ethics in Government Act precluded judicial review, at behest of members of the public, of Attorney General's decisions not to investigate allegations of wrongdoing during 1980 presidential campaign by several persons who were currently high-ranking officers of federal government and not to seek appointment of independent counsel with respect to officials covered by the Act. Banzhaf v. Smith, 1984, 737 F.2d 1167, 238 U.S.App.D.C. 20.

8. Persons entitled to maintain action

Private citizens lacked standing to challenge refusal by Attorney General to conduct preliminary investigation required under Ethics in Government Act to determine whether the President and other high-level federal executive officials had violated the Neutrality Act vis-a-vis Nicaragua. Dellums v. Smith, C.A.9 (Cal.) 1986, 797 F.2d 817.

9. Mandamus

District court judgment, which granted in part motion for summary judgment by plaintiffs seeking mandamus to compel Attorney General, pursuant to the Ethics in Government Act, to conduct preliminary investigation into charges against the Attorney General, assistant Attorney General and Director of the Federal Bureau of Investigation arising out of incident in which a number of persons were killed or wounded by members of the Ku Klux Klan and the American Nazi Party, would be reversed. Nathan v. Smith, 1984, 737 F.2d 1069, 237 U.S.App.D.C. 364.

§ 592. Preliminary investigation and application for appointment of an independent counsel

(a) Conduct of preliminary investigation.—

(1) In general.—A preliminary investigation conducted under this chapter shall be of such matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), on whether further investigation is warranted, with respect to each potential violation, or allegation of a violation, of criminal law. The Attorney General shall make such determination not later than 90 days after the preliminary investigation is commenced, except that, in the case of a preliminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make such determination not later than 90 days after the request is re-

ceived. The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement.

(2) Limited authority of Attorney General.—(A) In conducting preliminary investigations under this chapter, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

(B)(i) The Attorney General shall not base a determination under this chapter that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that such person lacked the state of mind required for the violation of criminal law.

(ii) The Attorney General shall not base a determination under this chapter that there are no reasonable grounds to believe that further investigation is warranted, upon a determination that such person lacked the state of mind required for the violation of criminal law involved, unless there is clear and convincing evidence that the person lacked such state of mind.

(3) Extension of time for preliminary investigation.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

(b) Determination that further investigation not warranted.—

(1) Notification of division of the court.—If the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

(2) Form of notification.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

(c) Determination that further investigation is warranted.—

(1) Application for appointment of independent counsel.— The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

(A) the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are reasonable grounds to believe that further investigation is warranted; or

(B) the 90-day period referred to in subsection (a)(1), and any extension granted under subsection (a)(3), have elapsed and the Attorney General has not filed a notification with the division of the court under subsection (b)(1).

In determining under this chapter whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the conduct of criminal investigations.

(2) Receipt of additional information.—If, after submitting a notification under subsection (b)(1), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, the Attorney General shall—

(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 90 days after the date on which such additional information is received; and

(B) otherwise comply with the provisions of this section with respect to such additional preliminary investigation to the same extent as any other preliminary investigation under this section.

(d) Contents of application.—Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters related to that subject matter.

(e) Disclosure of information.—Except as otherwise provided in this chapter, no officer or employee of the Department of Justice or an office of independent counsel may, without leave of the division of the court, disclose to any individual outside the Department of Justice or such office any notification, application, or any other document, materials, or memorandum supplied to the division of the court under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the Congress.

(f) Limitation on judicial review.—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

(g) Congressional request.—

(1) By Judiciary Committee or members thereof.—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

(2) Report by Attorney General pursuant to request.—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made, in accordance with subsection (a) or (c) of section 591, as the case may be. The report shall set forth the reasons for the Attorney General's decision regarding such preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin.

(3) Submission of information in response to congressional request.—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), such notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why such application was not made, addressing each matter with respect to which the congressional request was made.

(4) Disclosure of information.—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such report, notification, application, document, material, or memorandum as will

not in the committee's judgment prejudice the rights of any individual.

(Added Pub.L. 95-521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1868, and amended Pub.L. 97-409, §§ 2(a)(1), 4(b)-(e), Jan. 3, 1983, 96 Stat. 2039-2041; Pub.L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1295.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Catchline. Pub.L. 100-191 substituted "Preliminary investigation and application for appointment of an independent counsel" for "Application for appointment of a independent counsel".

Subsec. (a). Pub.L. 100-191 added subsec. (a) heading.

Subsec. (a)(1). Pub.L. 100-191 added par. (1) heading and, in text, substituted provisions directing that a preliminary investigation conducted under this chapter shall be of such matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), on whether further investigation is warranted, with respect to each potential violation, or allegation of a violation, of criminal law, that the Attorney General shall make such determination not later than 90 days after the preliminary investigation is commenced, except in the case of a preliminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make such determination not later than 90 days after the request is received, and that the Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement, for provisions which had directed that, upon receiving information that the Attorney General determined was sufficient to constitute grounds to investigate that any person covered by the Act had engaged in conduct described in subsection (a) or (c) of section 591 of this title (such determination based upon stated factors), the Attorney General had to conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deemed appropriate.

Subsec. (a)(2). Pub.L. 100-191 added par. (2) heading.

Subsec. (a)(2)(A). Pub.L. 100-191 designated the existing provisions of subsec. (a)(2) as subpar. (A) and, in subpar. (A) as so designated, substituted "preliminary investigations under this chapter" for "preliminary investigations pursuant to this section" and "subpoenas" for "subpenas".

Subsec. (a)(2)(B). Pub.L. 100-191 added subpar. (B).

Subsec. (a)(3). Pub.L. 100-191 added par. (3).

Subsec. (b). Pub.L. 100-191 added headings for subsec. (b) and pars. (1) and (2), re-enacted the text of subsec. (b)(1) and (2) substantially without change, and struck out former par. (3), prohibiting the revelation of memoranda to outside individuals without leave of the division of the court.

Subsec. (c). Pub.L. 100-191 added headings for subsec. (c) and for each of pars. (1) and (2) and re-enacted the text of subsec. (c)(1) and (2) substantially without change.

Subsec. (d). Pub.L. 100-191 added subsec. (d) heading, struck out the par. "(1)" designation preceding "Any application", re-enacted the text of former par. (1) substantially without change, and struck out former par. (2) relating to the prohibition upon the revelation of information to outside individuals without leave of the division of the court.

Subsec. (e). Pub.L. 100-191 added subsec. (e) heading and, in text, substi-

tuted provisions prohibiting the revelation of documents, materials, and memoranda to outside individuals without leave of the court (with exception relating to congress), for provisions relating to the referral to independent counsel by the Attorney General of matters within the independent counsel's prosecutorial jurisdiction.

Subsec. (f). Pub.L. 100-191 added subsec. (f) heading and re-enacted the text substantially without change.

Subsec. (g). Pub.L. 100-191 added subsec. (g).

1983 Amendments. Subsec. (a). Pub.L. 97-409, § 4(b), substituted direction, designated par. (1), that 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, and that in determining whether grounds to investigate exist, the Attorney General shall consider the degree of specificity of the information received and the credibility of the source of the information for provision that the Attorney General, upon receiving specific information that any of the persons described in section 591(b) of this title had engaged in conduct described in section 591(a) of this title, was to conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deemed appropriate, and added par. (2).

Subsec. (b)(1). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor".

Pub.L. 97-409, § 4(c), substituted "that there are no reasonable grounds to believe that further investigation or prosecution is warranted" for "that the matter is so unsubstantiated that no further investigation or prosecution is warranted".

Subsec. (c)(1). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor".

Pub.L. 97-409, § 4(d), substituted "finds reasonable grounds to believe that further investigation or prosecution is warranted" for "finds the matter warrants further investigation or prosecution" after "preliminary investigation,", and "that there are no reasonable grounds to believe that further investigation or prosecution is warranted" for "that the matter is so unsubstantiated as not to warrant further investigation or prosecution", and added provision that in determining whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

Subsec. (c)(2). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" in the provisions following subpar. (B).

Subsec. (c)(2)(A). Pub.L. 97-409, § 4(e)(1), substituted "information sufficient to constitute grounds to investigate" for "specific information" after "receives additional".

Subsec. (c)(2)(B). Pub.L. 97-409, § 4(e)(2), substituted "reasonable grounds exist to warrant" for "such information warrants" after "appropriate, that".

Subsecs. (d)(1), (e). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" wherever appearing.

Pub.L. 97-409, § 2(a)(1)(B), substituted "independent counsel's" for "special prosecutor's" wherever appearing.

Subsec. (f). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor".

Effective Dates

1987 Acts. Amendment by Pub.L. 100-191 to take effect on Dec. 15, 1987, and to apply only to new independent counsel proceedings and to new independent counsels coming into existence on and after Dec. 15, 1987, see section 6 of Pub.L. 100-191, set out as a note under section 591 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95-521, set out as a note under section 591 of this title.

Note 10

tigation arising out of incident in which a number of persons were killed or wounded by members of the Ku Klux Klan and the American Nazi Party, would be reversed. Nathan v. Smith, 1984, 737 F.2d 1069, 237 U.S.App.D.C. 364.

§ 593. Duties of the division of the court

(a) Reference to division of the court.—The division of the court to which this chapter refers is the division established under section 49 of this title.

(b) Appointment and jurisdiction of independent counsel.—

(1) Authority.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

(2) Qualifications of independent counsel.—The division of the court shall appoint as independent counsel an individual who has appropriate experience and who will conduct the investigation and any prosecution in a prompt, responsible, and cost-effective manner. The division of the court shall seek to appoint as independent counsel an individual who will serve to the extent necessary to complete the investigation and any prosecution without undue delay. The division of the court may not appoint as an independent counsel any person who holds any office of profit or trust under the United States.

(3) Scope of prosecutorial jurisdiction.—In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel, and all matters related to that subject matter. Such jurisdiction shall also include the authority to investigate and prosecute Federal crimes, other than those classified as Class B or C misdemeanors or infractions, that may arise out of the investigation or prosecution of the matter with respect to which the Attorney General's request was made, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

(4) Disclosure of identity and prosecutorial jurisdiction.—An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (c)) may not be made public except upon the request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In

any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned, or any criminal information is filed, pursuant to the independent counsel's investigation.

(c) Expansion of jurisdiction.—

(1) In general.—The division of the court, upon the request of the Attorney General, may expand the prosecutorial jurisdiction of an independent counsel, and such expansion may be in lieu of the appointment of another independent counsel.

(2) Procedure for request by independent counsel.—(A) If the independent counsel discovers or receives information about possible violations of criminal law by persons as provided in section 591, which are not covered by the prosecutorial jurisdiction of the independent counsel, the independent counsel may submit such information to the Attorney General. The Attorney General shall then conduct a preliminary investigation of the information in accordance with the provisions of section 592, except that such preliminary investigation shall not exceed 30 days from the date such information is received. In making the determinations required by section 592, the Attorney General shall give great weight to any recommendations of the independent counsel.

(B) If the Attorney General determines, after according great weight to the recommendations of the independent counsel, that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court and the division of the court shall have no power to expand the jurisdiction of the independent counsel or to appoint another independent counsel with respect to the matters involved.

(C) If—

(i) the Attorney General determines that there are reasonable grounds to believe that further investigation is warranted; or

(ii) the 30-day period referred to in subparagraph (A) elapses without a notification to the division of the court that no further investigation is warranted,

the division of the court shall expand the jurisdiction of the appropriate independent counsel to include the matters involved or shall appoint another independent counsel to investigate such matters.

(d) Return for further explanation.—Upon receipt of a notification under section 592 or subsection (c)(2)(B) of this section from

the Attorney General that there are no reasonable grounds to believe that further investigation is warranted with respect to information received under this chapter, the division of the court shall have no authority to overrule this determination but may return the matter to the Attorney General for further explanation of the reasons for such determination.

(e) Vacancies.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed.

(f) Attorneys' fees.—

(1) Award of fees.—Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against such individual pursuant to that investigation, award reimbursement for those reasonable attorneys' fees incurred by that individual during that investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the Attorney General of any request for attorneys' fees under this subsection.

(2) Evaluation of fees.—The division of the court may direct the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, analyzing for each expense—

(A) the sufficiency of the documentation;

(B) the need or justification for the underlying item; and

(C) the reasonableness of the amount of money requested.

(g) Disclosure of information.—The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

(h) Amicus curiae briefs.—When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

(Added Pub.L. 95–521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1869, and amended Pub.L. 97–409, §§ 2(a)(1), 5, Jan. 3, 1983, 96 Stat. 2039, 2041; Pub.L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1297.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Catchline. Pub.L. 100-191 re-enacted the section heading without change.

Subsec. (a). Pub.L. 100-191 added subsec. (a) heading and re-enacted the text without change.

Subsec. (b). Pub.L. 100-191 added subsec. (b) heading, designated existing provisions as pars. (1) and (4) and in pars. (1) and (4), as so designated, added par. headings and re-enacted such provisions substantially without change, and added pars. (2) and (3).

Subsec. (c). Pub.L. 100-191 added subsec. (c) heading.

Subsec. (c)(1). Pub.L. 100-191 designated existing provisions as par. (1), added a par. (1) heading, and re-enacted such provisions substantially without change.

Subsec. (c)(2). Pub.L. 100-191 added par. (2).

Subsec. (d). Pub.L. 100-191 added subsec. (d) heading, and substituted provisions authorizing the court to return the matter to the Attorney General for further explanation when the Attorney General notifies the court that there are no reasonable grounds to believe that further investigation is warranted with respect to information received under this chapter for former provisions which had directed that the court could not appoint as an independent counsel any person who recently held any office of profit or trust under the United States.

Subsec. (e). Pub.L. 100-191 added subsec. (e) heading and re-enacted existing text substantially without change.

Subsec. (f)(1). Pub.L. 100-191 added subsec. and par. headings, and substituted provisions relating to attorneys' fees for provisions authorizing the granting of an extension of 60 days in the preliminary investigation.

Subsec. (f)(2). Pub.L. 100-191 added par. (2).

Subsec. (g). Pub.L. 100-191 added subsec. heading, and substituted provisions relating to the disclosure of information for provisions relating to attorneys' fees.

Subsec. (h). Pub.L. 100-191 added subsec. (h).

1983 Amendments. Subsec. (b). Pub.L. 97-409, § 2(a)(1), substituted "independent counsel" for "special prosecutor" and "independent counsel's" for "special prosecutor's" wherever appearing.

Subsecs. (c) to (e). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" wherever appearing.

Subsecs. (f), (g). Pub.L. 97-409, § 5, added subsecs. (f) and (g).

Effective Dates

1987 Acts. Amendment by Pub.L. 100-191 to take effect on Dec. 15, 1987, and to apply only to new independent counsel proceedings and to new independent counsels coming into existence on and after Dec. 15, 1987, but with subsec. (f) applicable to previously initiated proceedings still pending on Dec. 15, 1987, see section 6 of Pub.L. 100-191, set out as a note under section 591 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95-521, set out as a note under section 591 of this title.

CROSS REFERENCES

Application for order from special prosecutor appointed under this section for disclosure of return and information other than taxpayer return information for use in criminal investigations, see 26 USCA § 6103.

Note 26

established that, in the investigation conducted by Independent Counsel, the official was being subjected to expenses for a duplicative investigation that he would not have been subject to in the absence of the Ethics in Government Act and thus satisfied the "but for" requirement for an unindicted investigation subject to recover attorney fees under the Independent Counsel Reauthorization Act. In re Olson, 1990, 892 F.2d 1073, 282 U.S.App. D.C. 139.

27. —— Similarity with costs of conventional investigation

Former high government employee who was prosecuted for communicating with agency with which he was formerly employed within one year after leaving government service failed to show that attorney fees were incurred by him during independent counsel investigation that would not have been incurred but for requirements of the Ethics in Government Act, so as to qualify him for attorney fees when, following reversal of convictions, independent counsel declined further prosecution and indictments were dismissed with prejudice; record demonstrated that, in absence of the Act, official would nonetheless have been investigated and prosecuted by Department of Justice under statute which includes private citizens. In re Nofziger, 1991, 938 F.2d 1397, 291 U.S.App.D.C. 138.

Attorneys fees incurred in connection with independent counsel investigation of government official's allegedly illegal lobbying activities were not reimbursable under statute allowing recovery of fees which would not have been incurred "but for" investigation; there was nothing in the investigation, indictments, time or effort expended by government, types of inquiries conducted, or results which were materially different from those which would have resulted from a conventional Department of Justice investigation. In re Nofziger, 1991, 925 F.2d 428, 288 U.S.App.D.C. 197, rehearing denied 938 F.2d 1397, 291 U.S.App.D.C. 138.

28. —— Vigorousness of investigation

United States Attorney General was entitled to recover attorney fees and costs incurred in connection with investigation by independent counsel as to whether Attorney General, as counselor to President, violated conflict of interest laws in assisting minority-owned corporation in its efforts to obtain government defense contracts; no indictment was brought against Attorney General upon completion of investigation and basis upon which referral was made and extreme expansion of resulting investigation subjected Attorney General to more vigorous application of criminal law than was applied to other citizens and caused him to incur legal expenses no ordinary citizen would have incurred but for independent counsel statute. In re Meese, 1990, 907 F.2d 1192, 285 U.S.App.D.C. 186.

29. Compensable services—Generally

Government official who has been subject of investigation conducted by independent counsel cannot recover reimbursement for attorney fees that are inherent in every independent counsel investigation, such as fees for services rendered in reviewing the Ethics in Government Act and discussing strategy vis-a-vis the independent counsel. In re Nofziger, 1991, 938 F.2d 1397, 291 U.S.App. D.C. 138.

30. —— Accountants fees

Fees for work performed by "accountant/attorneys" were reimbursable under Independent Counsel Reauthorization Act as "reasonable attorneys' fees" in tax case. In re Sealed Case, 1989, 890 F.2d 451, 281 U.S.App.D.C. 334.

31. —— Preliminary investigation

Attorney services provided, immediately prior to and in anticipation of appointment of independent counsel, to government official who becomes subject of independent counsel investigation are not compensable under the Ethics in Government Act. In re Nofziger, 1991, 938 F.2d 1397, 291 U.S.App.D.C. 138.

Independent Counsel Reauthorization Act did not authorize award of attorney fees incurred during preliminary investigation conducted by Attorney General. In re Sealed Case, 1989, 890 F.2d 451, 281 U.S.App.D.C. 334.

32. —— Preparation of attorney fees application

United States Attorney General, in recovering attorney fees under Independent Counsel Reauthorization Act, was not entitled to recover fees for services rendered in preparation of attorney fee

applications; those fees were not for services rendered in asserting merits of Attorney General's defense to independent counsel investigation. In re Meese, 1990, 907 F.2d 1192, 285 U.S.App.D.C. 186.

33. —— Review of press clippings

Fees incurred by United States Attorney General's attorneys in reviewing press clippings concerning independent counsel investigation, because of heavy media involvement, provided useful and important information that assisted counsel in representation of subject and was therefore reasonably related to defense of investigation and were recoverable under Independent Counsel Reauthorization Act. In re Meese, 1990, 907 F.2d 1192, 285 U.S.App.D.C. 186.

34. Expenses

Expenses for business meals, support staff overtime, service fee, supplies, and photocopying were excessive or unnecessary and could not be fully recovered by United States Attorney General under Independent Counsel Reauthorization Act. In re Meese, 1990, 907 F.2d 1192, 285 U.S.App.D.C. 186.

35. Payment of fees

Subject of independent counsel investigation need not have paid attorney fees before reimbursement can be sought under Independent Counsel Reauthorization Act; rather, subject need only be legally liable for fees incurred by representation during investigation. In re Donovan, 1989, 877 F.2d 982, 278 U.S.App.D.C. 194.

36. Time of request

Request for attorney fees made by individuals who testified under grant of transactional immunity in investigation conducted by independent counsel was premature; while individuals had not been indicted, indictment was still possible, it was not clear that fees would have been incurred in absence of independent counsel law, or whether applicants were subjects of grand jury investigation and it was inopportune time to interrupt ongoing investigation to embark on extensive collateral fee inquiry. In re North, 1988, 842 F.2d 340, 268 U.S.App.D.C. 344.

§ 594. Authority and duties of an independent counsel

(a) Authorities.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

(1) conducting proceedings before grand juries and other investigations;

(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such independent counsel considers necessary;

(3) appealing any decision of a court in any case or proceeding in which such independent counsel participates in an official capacity;

(4) reviewing all documentary evidence available from any source;

(5) determining whether to contest the assertion of any testimonial privilege;

(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

(b) Compensation.—An independent counsel appointed under this chapter shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(c) Additional personnel.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS–18 of the General Schedule under section 5332 of title 5.

(d) Assistance of Department of Justice.—

(1) In carrying out functions.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.

(2) Payment of and reports on expenditures of independent counsel.—The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each such report shall include a statement of all payments made for activities of independent counsel but may not reveal the identity or prosecutorial jurisdiction of any independent counsel which has not been disclosed under section 593(b)(4).

(e) Referral of other matters to an independent counsel.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction. If the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

(f) Compliance with policies of the Department of Justice.—An independent counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws.

(g) Dismissal of matters.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

(h) Reports by independent counsel.—

(1) Required reports.—An independent counsel shall—

(A) file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, and summarizes all other expenses, incurred by that office during the 6-month period with respect to which the report is filed, and estimates future expenses of that office; and

(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel.

(2) Disclosure of information in reports.—The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report.

(i) Independence from Department of Justice.—Each independent counsel appointed under this chapter, and the persons appointed by that independent counsel under subsection (c), are separate from and independent of the Department of Justice for purposes of sections 202 through 209 of title 18.

(j) Standards of conduct applicable to independent counsel, persons serving in the office of an independent counsel, and their law firms.—

(1) Restrictions on employment while independent counsel and appointees are serving.—(A) During the period in which an independent counsel is serving under this chapter—

(i) such independent counsel, and

(ii) any person associated with a firm with which such independent counsel is associated,

may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(B) During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, such person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(2) Post employment restrictions on independent counsel and appointees.—(A) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel.

(B) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 1 year following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

(3) One-year ban on representation by members of firms of independent counsel.—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following such termination, represent any person in any matter involving any investigation or prosecution under this chapter.

(4) Definitions.—For purposes of this subsection—

(A) the term "firm" means a law firm whether organized as a partnership or corporation; and

(B) a person is "associated" with a firm if that person is an officer, director, partner, or other member or employee of that firm.

(k) Custody of records of an independent counsel.—

(1) Transfer of records.—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal

Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Reauthorization Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of such records.

(2) Maintenance, use, and disposal of records.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

(3) Access to records.—

(A) In general.—Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

(B) Access by Department of Justice.—The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding, except that, in the case of grand jury materials, such records shall be so disclosed only by order of the court of jurisdiction under rule 6(e) of the Federal Rules of Criminal Procedure.

(C) Exception.—Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

(4) Records provided by Congress.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

(A) shall be maintained as a separate body of records within the records of the independent counsel; and

(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in paragraph (3)(B) and (C), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

(Added Pub.L. 95-521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1869, and amended Pub.L. 97-409, §§ 2(a)(1), 6(a)-(c), Jan. 3, 1983, 96 Stat. 2039, 2041; Pub.L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub.L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1300.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

References in Text

Section 6103 of the Internal Revenue Code of 1986, referred to in subsec. (a)(8), is classified to section 6103 of Title 26, Internal Revenue Code.

The Federal Rules of Criminal Procedure, referred to in subsec. (k)(1), (3)(B), are set out in Title 18, Crimes and Criminal Procedure.

The enactment of the Independent Counsel Reauthorization Act of 1987, referred to in subsec. (k)(1), is the enactment of Pub.L. 100-191, which was approved Dec. 15, 1987.

References in Other Laws to GS-16, 17, or 18 Pay Rates

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [Title I, § 101(c)(1)] of Pub.L. 101-509, set out in a note under section 5376 of Title 5.

Amendments

1987 Amendments. Catchline. Pub.L. 100-191 substituted "an" for "a" preceding "independent counsel".

Subsec. (a). Pub.L. 100-191 added a subsec. (a) heading and re-enacted the existing text substantially without change.

Subsec. (b). Pub.L. 100-191 added a subsec. (b) heading and re-enacted the existing text substantially without change.

Subsec. (c). Pub.L. 100-191 added a subsec. (c) heading and re-enacted the existing text substantially without change.

Subsec. (d). Pub.L. 100-191 added a subsec. (d) heading.

Subsec. (d)(1). Pub.L. 100-191 designated the existing provisions of subsec. (d) as par. (1), re-enacted such provisions substantially without change, and added a par. (1) heading.

Subsec. (d)(2). Pub.L. 100-191 added par. (2).

Subsec. (e). Pub.L. 100-191 added a subsec. (e) heading and re-enacted existing text substantially without change.

Subsec. (f). Pub.L. 100-191 added a subsec. (f) heading and re-enacted existing text without change.

Subsec. (g). Pub.L. 100-191 added a subsec. (g) heading and re-enacted existing text substantially without change.

Subsec. (h) to (k). Pub.L. 100-191 added subsecs. (h) to (k).

1986 Amendments. Subsec. (a)(8). Pub.L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1983 Amendments. Catchline. Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor".

Subsec. (a). Pub.L. 97-409, § 2(a)(1), substituted "independent counsel" for "special prosecutor" wherever appearing and "independent counsel's" for "special prosecutor's".

Subsec. (a)(10). Pub.L. 97-409, § 6(a), added par. (10).

Subsecs. (b), (c). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent

counsel" for "special prosecutor" wherever appearing.

Subsecs. (d), (e). Pub.L. 97–409, § 2(a)(1), substituted "independent counsel" for "special prosecutor" and "independent counsel's" for "special prosecutor's" wherever appearing.

Subsec. (f). Pub.L. 97–409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" wherever appearing.

Pub.L. 97–409, § 6(b), substituted "except where not possible" for "to the extent that such special prosecutor deems appropriate" after "shall," and "written or other established policies" for "written policies" after "comply with the".

Subsec. (g). Pub.L. 97–409, § 6(c), added subsec. (g).

Effective Dates

1987 Acts. Amendment by Pub.L. 100–191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, but with the following provisions applicable to previously initiated proceedings pending on Dec. 15, 1987: subsec. (d)(2) (relating to reports by Attorney General on expenditures by independent counsel, except that the first such report shall be made only with respect to expenditures on or after Dec. 15, 1987), subsec. (h)(1)(A) except that the 6-month periods described in subsec. (h)(1)(A) of this section shall be calculated from Dec. 15, 1987, subsec. (i), subsec. (k) of this section, and 90 days after Dec. 15, 1987, subsec. (j), see section 6 of Pub.L. 100–191, set out as a note under section 591 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95–521, set out as a note under section 591 of this title.

CROSS REFERENCES

Independent counsel appointed under this chapter included in term "special government employee" for purposes of Chapter 11, Bribery, Graft and Conflict of Interest, see 18 USCA § 202.

LIBRARY REFERENCES

American Digest System

District and prosecuting attorneys; deputies, assistants, and substitutes, see District and Prosecuting Attorneys ⇐3(1).

Encyclopedias

District and prosecuting attorneys; deputies, assistants, and substitutes, see C.J.S. District and Prosecuting Attorneys § 27 et seq.

WESTLAW ELECTRONIC RESEARCH

District and prosecuting attorneys cases: 131k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Appeals 2
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Investigations 1
Justice Department enforcement policies 5

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1. Investigations

Members of Justice Department, who challenged authority or propriety of Independent Counsel's investigation into alleged illegal activity in Department, could do so only after indictment, if any, was returned by grand jury. In re Olson, 1987, 818 F.2d 34, 260 U.S.App.D.C. 168.

2. Appeals

Only special counsel, not Attorney General could appeal for the Government the court's ruling in prosecution governed by the Ethics in Government

Act. U.S. v. North, D.D.C.1989, 713 F.Supp. 1441.

3. Indictments

Consolidation of indictment filed by the Office of Independent Counsel (OIC) charging three defendants with conspiracy and two with submitting false statements to the Department of Housing and Urban Development (DHUD), in connection with grant applications, with Department of Justice indictment charging two defendants with bribery and conspiracy would not subject the OIC to Department of Justice control, and thus would not violate the Ethics in Government Act, under which OIC was appointed. U.S. v. Briscoe, D.D.C.1992, 798 F.Supp. 28.

4. Appointment of additional personnel

Fact that associate independent counsel are appointed by independent counsel and not special court does not invalidate their appointments under the Ethics in Government Act, as staff members of independent counsel, who has inferior officer, are not officers but mere employees of United States. In re Sealed Case, D.D.C.1987, 665 F.Supp. 56, reversed 838 F.2d 476, 267 U.S.App.D.C. 178, reversed 108 S.Ct. 2597, 487 U.S. 654, 101 L.Ed.2d 569, on remand 857 F.2d 801, 273 U.S.App.D.C. 10.

5. Justice Department enforcement policies

Dismissal for failure to follow policies of Department of Justice of indictment charging violation of general federal false statement statute and obstruction of Congress was not warranted; very nature of independent counsel's responsibilities suggest that it may not always be possible for him to follow the policies of Department of Justice. U.S. v. Poindexter, D.D.C.1989, 725 F.Supp. 13.

6. Disclosure of information

Even if showing of particularized need was required to authorize release to witness of witness' grand jury testimony in proceeding under Ethics in Government Act, record demonstrated that such need existed; subject matter of witness' testimony was important to investigation, and witness could have been named in independent counsel's public final report. In re Sealed Motion, 1989, 880 F.2d 1367, 279 U.S.App.D.C. 294.

§ 595. Congressional oversight

(a) Oversight of conduct of independent counsel.—

(1) Congressional oversight.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and such independent counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(2) Reports to Congress.—An independent counsel appointed under this chapter shall submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate.

(b) Oversight of conduct of Attorney General.—Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to that case:

(1) When the information about the case was received.

(2) Whether a preliminary investigation is being conducted, and if so, the date it began.

(3) Whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of such filing.

(c) **Information relating to impeachment.**—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

(Added Pub.L. 95-521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1871, and amended Pub.L. 97-409, § 2(a)(1), Jan. 3, 1983, 96 Stat. 2039; Pub.L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1304.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Catchline. Pub.L. 100-191 substituted "Congressional oversight" for "Reporting and congressional oversight".

Subsec. (a). Pub.L. 100-191 added subsec. (a) heading and, in text, added par. (1) and designated existing provisions as par. (2), and in par. (2), as so designated, deleted provisions authorizing the independent counsel to make public from time to time statements or reports on the independent counsel's activities.

Subsec. (b). Pub.L. 100-191 substituted provisions requiring the Attorney General to respond to inquiries by Congress conducting oversight of the independent counsel process for former provisions which required the independent counsel to submit a report describing the work of the independent counsel, and authorized the court to release to the Congress, the public, or to any appropriate person, appropriate portions of the report.

Subsec. (c). Pub.L. 100-191 added subsec. (c) heading and, in text, re-enacted existing provisions adding requirement that the independent counsel receive information as part of the independent counsel's activities in carrying out the independent counsel's responsibilities under this chapter.

Subsec. (d). Pub.L. 100-191 struck out subsec. (d) which related to Congressional oversight jurisdiction of official conduct of the independent counsel.

Subsec. (e). Pub.L. 100-191 struck out subsec. (e), which had provided that a majority of majority party members or a majority of all nonmajority party members of the Committee on the Judiciary of either House of the Congress could request in writing that the Attorney General apply for the appointment of an independent counsel, that not later than thirty days after the receipt of such a request, or not later than fifteen days after the completion of a preliminary investigation of the matter with respect to which the request was made, whichever was later, the Attorney General had to

provide written notification of any action the Attorney General had taken in response to such request and, if no application had been made to the division of the court, why such application had not been made, and that such written notification was to be provided to the committee on which the persons making the request served, and provided for confidential treatment of such notification.

1983 Amendments. Pub.L. 97-409, § 2(a)(1), substituted "independent counsel" for "special prosecutor" and "independent counsel's" for "special prosecutor's" wherever appearing.

Effective Dates

1987 Acts. Amendment by Pub.L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub.L. 100-191, set out as a note under section 591 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95-521, set out as a note under section 591 of this title.

LIBRARY REFERENCES

American Digest System

District and prosecuting attorneys; deputies, assistants, and substitutes, see District and Prosecuting Attorneys ⇐3(1).

Encyclopedias

District and prosecuting attorneys; deputies, assistants, and substitutes, see C.J.S. District and Prosecuting Attorneys § 27 et seq.

WESTLAW ELECTRONIC RESEARCH

District and prosecuting attorneys cases: 131k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Impeachment 1

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1. Impeachment

Neither special division nor independent counsel have any authority to impeach anyone; if independent counsel receives information that may constitute grounds for impeachment, he or she is to advise House of Representatives. In re Visser, 1992, 968 F.2d 1319, 297 U.S.App.D.C. 37.

§ 596. Removal of an independent counsel; termination of office

(a) Removal; report on removal.—

(1) Grounds for removal.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties.

(2) Report to division of the court and Congress.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the

ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in accordance with section 594(h)(2).

(3) Judicial review of removal.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. The independent counsel may be reinstated or granted other appropriate relief by order of the court.

(b) Termination of office.—

(1) Termination by action of independent counsel.—An office of independent counsel shall terminate when—

(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

(2) Termination by division of the court.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the final report required by section 594(h)(1)(B).

(c) Audits.—After the termination of the office of an independent counsel, the Comptroller General shall conduct an audit of the

expenditures of that office, and shall submit to the appropriate committees of the Congress a report on the audit.

(Added Pub.L. 95-521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1872, and amended Pub.L. 97-409, §§ 2(a)(1), 6(d), Jan. 3, 1983, 96 Stat. 2039, 2042; Pub.L. 98-620, Title IV, § 402(29)(A), Nov. 8, 1984, 98 Stat. 3359; Pub.L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1304.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1984 Acts. House Report No. 98-1062, see 1984 U.S.Code Cong. and Adm.News, p. 5708.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Catchline. Pub.L. 100-191 substituted "an independent counsel" for "a independent counsel".

Subsec. (a). Pub.L. 100-191 added subsec. (a) heading.

Subsec. (a)(1). Pub.L. 100-191 added a par. (1) heading and re-enacted the text substantially without change.

Subsec. (a)(2). Pub.L. 100-191 added par. (2) heading and re-enacted the text substantially without change.

Subsec. (a)(3). Pub.L. 100-191 added par. (3) heading and re-enacted the text substantially without change save for the substitution of "the United States District Court for the District of Columbia" for "the division of the court" as the tribunal for judicial review of the removal.

Subsec. (b). Pub.L. 100-191 added subsec. (b) heading.

Subsec. (b)(1). Pub.L. 100-191 added par. (1) heading and re-enacted the text substantially without change.

Subsec. (b)(2). Pub.L. 100-191 added par. (2) heading and re-enacted the text substantially without change.

Subsec. (c). Pub.L. 100-191 added subsec. (c).

1984 Amendments. Subsec. (a)(3). Pub.L. 98-620 struck out provision requiring the division of the court to cause such an action to be in every way expedited.

1983 Amendments. Catchline. Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor".

Subsec. (a)(1). Pub.L. 97-409, § 2(a)(1), (6)(d), substituted "independent counsel" for "special prosecutor", "independent counsel's" for "special prosecutor's", and "good cause" for "extraordinary impropriety".

Subsecs. (a)(2) (3), (b). Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" wherever appearing.

Effective Dates

1987 Acts. Amendment by Pub.L. 100-191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, but with subsecs. (a)(3) and (c) applicable to previously initiated proceedings pending on Dec. 15, 1987, see section 6 of Pub.L. 100-191, set out as a note under section 591 of this title.

1984 Acts. Amendment by Pub.L. 98-620 not to apply to cases pending on Nov. 8, 1984, see section 403 of Pub.L. 98-620, set out as a note under section 1657 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95-521, set out as a note under section 591 of this title.

LIBRARY REFERENCES

American Digest System

Attorney general; powers and duties in general, see Attorney General ⇐6.

Encyclopedias

Attorney general; powers and duties in general, see C.J.S. Attorney General § 7.

WESTLAW ELECTRONIC RESEARCH

Attorney general cases: 46k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Constitutionality
Generally 1
Ripeness 3
Separation of powers 2
Ripeness, constitutionality 3
Separation of powers, constitutionality 2

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1. Constitutionality—Generally

Provision in Ethics in Government Act giving Special Division power to terminate office of independent counsel does not violate Article III prohibition against judicial exercise of executive power in that such termination may occur only when duties of counsel are completed or so substantially completed that there is no need for any continued action by independent counsel. Morrison v. Olson, Dist.Col.1988, 108 S.Ct. 2597, 487 U.S. 654, 101 L.Ed.2d 569, on remand 857 F.2d 801, 273 U.S.App.D.C. 10.

2. —— Separation of powers

Ethics in Government Act restricting Attorney General's power to remove independent counsel to only those instances in which he can show "good cause" does not impermissibly interfere with President's exercise of his constitutionally appointed functions, in violation of separation of powers doctrine; independent counsel is inferior officer under appointments clause and President's need to control counsel is not so essential to functioning of Executive Branch as to require as matter of constitutional law that counsel be terminable at will by President. Morrison v. Olson, Dist.Col. 1988, 108 S.Ct. 2597, 487 U.S. 654, 101 L.Ed.2d 569, on remand 857 F.2d 801, 273 U.S.App.D.C. 10.

3. —— Ripeness

Issue of whether any aspect of relationship between special division of the Court of Appeals and the Independent Counsel violated Constitution was not ripe where same individual who had been appointed as independent counsel by the special division had also been appointed as an independent counsel by the Attorney General and given the same authority. In re Sealed Case, 1987, 829 F.2d 50, 264 U.S.App.D.C. 265, certiorari denied 108 S.Ct. 753, 484 U.S. 1027, 98 L.Ed.2d 765.

§ 597. Relationship with Department of Justice

(a) Suspension of other investigations and proceedings.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d)(1), and, except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

(b) Presentation as amicus curiae permitted.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

(Added Pub.L. 95–521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1872, and amended Pub.L. 97–409, § 2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039; Pub.L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1306.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95–170 and 95–273, and House Conference Report No. 95–1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97–496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1987 Acts. Senate Report No. 100–123, House Conference Report No. 100–452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Subsec. (a). Pub.L. 100–191 added subsec. (a) heading and re-enacted the text substantially without change.

Subsec. (b). Pub.L. 100–191 added subsec. (b) heading and re-enacted the text substantially without change.

1983 Amendments. Pub.L. 97–409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" wherever appearing.

Effective Dates

1987 Acts. Amendment by Pub.L. 100–191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, section 6 of Pub.L. 100–191, set out as a note under section 591 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95–521, set out as a note under section 591 of this title.

LIBRARY REFERENCES

American Digest System

Attorney general; powers and duties in general, see Attorney General ⇐6.

Encyclopedias

Attorney general; powers and duties in general, see C.J.S. Attorney General § 7.

WESTLAW ELECTRONIC RESEARCH

Attorney general cases: 46k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Suspension of investigation 1

1. Suspension of investigation

Attorney General's delegation to independent counsel whom he appointed of investigative and prosecutorial functions and powers did not violate Ethics Act requirement that Attorney General and the Department of Justice suspend all investigations when a matter is in the prosecutorial jurisdiction of an independent counsel appointed by special division of the Court of Appeals under the Ethics Act, where person appointed independent counsel by the Attorney General was the same person who had been appointed under the Ethics Act, so that his

signing of appointment form constituted an agreement in writing that the Justice Department investigation could continue. In re Sealed Case, 1987, 829 F.2d 50, 264 U.S.App.D.C. 265, certiorari denied 108 S.Ct. 753, 484 U.S. 1027, 98 L.Ed.2d 765.

§ 598. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

(Added Pub.L. 95-521, Title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1873, and amended Pub.L. 97-409, §§ 2(a)(1)(A), 7, Jan. 3, 1983, 96 Stat. 2039, 2042; Pub.L. 100-191, § 2, Dec. 15, 1987, 101 Stat. 1306.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1978 Acts. Senate Report Nos. 95-170 and 95-273, and House Conference Report No. 95-1756, see 1978 U.S.Code Cong. and Adm.News, p. 4216.

1983 Acts. Senate Report No. 97-496, see 1982 U.S.Code Cong. and Adm.News, p. 3537.

1987 Acts. Senate Report No. 100-123, House Conference Report No. 100-452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

Amendments

1987 Amendments. Pub.L. 100-191 substituted provisions relating to the severability of the provisions of this chapter for former provisions which had related to the termination of this chapter. Provisions covering the termination of this chapter were transferred to section 599 of this title.

1983 Amendments. Pub.L. 97-409, § 2(a)(1)(A), substituted "independent counsel" for "special prosecutor" wherever appearing.

Pub.L. 97-409, § 7, substituted reference to the date of enactment of the Ethics in Government Act Amendments of 1982 for reference to the date of enactment of this chapter.

Effective Dates

1987 Acts. Amendment by Pub.L. 100-191 effective Dec. 15, 1987, and to apply only to new independent counsel proceedings and to new independent counsels coming into existence on and after Dec. 15, 1987, see section 6 of Pub.L. 100-191, set out as a note under section 591 of this title.

1978 Acts. Section effective Oct. 26, 1978, except for specific information received by the Attorney General pursuant to section 591 of this title based on determinations made by the Attorney General respecting such information, see section 604 of Pub.L. 95-521, set out as a note under section 591 of this title.

LIBRARY REFERENCES

American Digest System

Effect of partial invalidity of statute in general, see Statutes ⇐64(1).

Encyclopedias

Effect of partial invalidity of statute in general, see C.J.S. Statutes § 92.

WESTLAW ELECTRONIC RESEARCH

Statutes cases: 361k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 599. Termination of effect of chapter

This chapter shall cease to be effective five years after the date of the enactment of the Independent Counsel Reauthorization Act of 1987, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of such counsel require such continuation until that independent counsel determines such matters have been completed.

(Added Pub.L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1306.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1987 Acts. Senate Report No. 100–123, House Conference Report No. 100–452, and Statement by President, see 1987 U.S.Code Cong. and Adm.News, p. 2150.

References in Text

The date of the enactment of the Independent Counsel Reauthorization Act of 1987, referred to in text, is the date of the enactment of Pub.L. 100–191, which was approved Dec. 15, 1987.

Effective Dates

1987 Acts. Section effective Dec. 15, 1987, see section 6 of Pub.L. 100–191, set out as a note under section 591 of this title.

LIBRARY REFERENCES

American Digest System

Statutes; repeal, suspension, expiration, and revival, see Statutes ⇐149 et seq.

Encyclopedias

Statutes; repeal, suspension, and revival, see C.J.S. Statutes § 278 et seq.

WESTLAW ELECTRONIC RESEARCH

Statutes cases: 361k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.