

House Bill 1349

By: Representatives Taylor of the 173rd, Hitchens of the 161st, Greene of the 154th, and Reeves of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 15 of Title 45 of the Official Code of Georgia Annotated, relating to the
2 Attorney General, so to authorize and direct the appointment of a special prosecutor subject
3 to certain criteria; to provide for definitions; to provide for duties and funding for a special
4 prosecutor; to establish a special prosecution division; to provide for related matters; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 15 of Title 45 of the Official Code of Georgia Annotated, relating to the Attorney
9 General, is amended by adding a new article to read as follows:

10 "ARTICLE 2A

11 45-15-40.

12 As used in this article, the term:

13 (1) 'Prosecuting attorney' means the local elected prosecutor nominally responsible for
14 overseeing the filing and prosecuting of criminal charges with the prosecuting district.

15 (2) 'Prosecuting district' means a judicial district, comprising applicable subdivisions,
16 which has primary jurisdiction over criminal proceedings for offenses committed within
17 the political subdivisions therein.

18 45-15-41.

19 (a) The Governor, with the concurrence of the Attorney General, is authorized and directed
20 to appoint one or more special prosecutors for investigating and prosecuting offenses in
21 each prosecuting district in which the homicide rate over the two previous consecutive
22 calendar years exceeds twice the total homicide rate of this state and subject to the
23 provisions of Code Section 45-15-42.

24 (b) Each special prosecutor appointed pursuant to this article shall be duly admitted and
25 licensed to practice law in this state and shall not be currently serving as a prosecuting
26 attorney. No special prosecutor shall be required to be a current resident in the prosecuting
27 district to which the special prosecutor is appointed.

28 (c) Each special prosecutor may be appointed for a term of up to five years.

29 (d) An appointment of a special prosecutor may be renewed at the end of the special
30 prosecutor's term; provided, however, that the conditions of subsection (a) of this Code
31 section are met.

32 45-15-42.

33 (a) A special prosecutor appointed pursuant to this article shall investigate and prosecute
34 cases involving the following offenses:

35 (1) Murder as defined in Code Section 16-5-1;

36 (2) Murder in the second degree as defined in Code Section 16-5-1;

37 (3) Aggravated assault as defined in Code Section 16-5-21;

38 (4) Hijacking a motor vehicle in the first degree as defined in Code Section 16-5-44.1;

39 (5) Hijacking a motor vehicle in the second degree as defined in Code Section 16-5-44.1;

40 (6) Robbery as defined in Code Section 16-8-40;
41 (7) Armed robbery as defined in Code Section 16-8-41;
42 (8) Any felony weapons offense in violation of Article 4 of Chapter 11 of Title 16; and
43 (9) Manufacturing, delivering, distributing, dispensing, administering, selling, or
44 possessing with intent to distribute any controlled substance in violation of Code Section
45 16-13-30.

46 (b) A special prosecutor shall have all of the powers, duties, and responsibilities granted
47 to the prosecuting attorney in the prosecuting district to which he or she is appointed for
48 all offenses provided in subsection (a) of this Code section.

49 (c) In the event an offense listed in subsection (a) of this Code section leads to criminal
50 charges for which a special prosecutor has jurisdiction and such prosecutor elects not to
51 commence criminal proceedings, the prosecuting attorney may then commence such
52 proceedings.

53 (d) In the event an offense listed in subsection (a) of this Code section leads to criminal
54 charges for which a special prosecutor has jurisdiction and such prosecutor has initiated
55 criminal proceedings for such offense, the special prosecutor shall also have jurisdiction
56 over all other charges associated with the same criminal transaction.

57 (e) After a special prosecutor has filed criminal charges in a case for which he or she has
58 jurisdiction, such prosecutor shall continue to have jurisdiction over the entire criminal
59 case.

60 45-15-43.

61 (a) The Attorney General shall establish salaries and effect promotions of any special
62 prosecutor appointed pursuant to this article and subject to existing appropriations. The
63 Attorney General may employ additional special prosecutors, investigators,
64 paraprofessionals, clerical assistants, victim and witness assistance personnel, and other

65 employees or independent contractors as deemed necessary; provided, however, that the
66 total number of full-time employees does not exceed 15 at any given time.

67 (b) The office of the prosecuting attorney in a prosecuting district for which a special
68 prosecutor is appointed shall fully reimburse the Department of Law for all funds expended
69 by the department under such appointment.

70 (c) In the event a prosecuting attorney's office refuses to reimburse the Department of Law
71 as required by subsection (b) of this Code section, the state shall withhold all such amounts
72 due from future appropriations to the prosecuting attorney's office or the prosecuting
73 district.

74 45-15-44.

75 (a) The Department of Law shall establish a special prosecution division. To address
76 matters relating to certain serious or violent crimes, such division shall establish within
77 itself a prosecution unit to provide critical assistance to prosecuting attorneys.

78 (b) Upon the request of a prosecuting attorney, the special prosecution division may
79 provide assistance in the prosecution of any crime as provided in subsection (c) of this
80 Code section, including participation by an assistant attorney general as an assistant
81 prosecutor when so appointed by the prosecuting attorney for a term not to exceed three
82 years.

83 (c) The special prosecution division established pursuant to this Code section shall be
84 limited to providing assistance in cases involving the offenses listed in Code Section
85 45-15-42 and any lesser included offenses arising out of the same criminal transaction."

86 **SECTION 2.**

87 All laws and parts of laws in conflict with this Act are repealed.