WEST VIRGINIA CODE: §6B-2-9

§6B-2-9. Special prosecutor authorized.

(a)(1) If after referral to the appropriate county prosecuting attorney under subsection (v), section four of this article the Ethics Commission finds that the prosecuting attorney is, due to ill health or conflict of interest, unable to undertake a criminal investigation or prosecution, the chair of the Ethics Commission may, upon a two-thirds vote of the members of the Ethics Commission, petition the appropriate circuit court for the appointment of a special prosecutor through the West Virginia prosecuting attorneys Institute pursuant to the provisions of section six, article four, chapter seven of this code for the purpose of conducting an investigation to determine whether a violation of the criminal law of this state has occurred.

(2) If the West Virginia prosecuting attorneys Institute is unable, due to a conflict of interest of its Executive Director, to assign a special prosecuting attorney to a criminal investigation or prosecution, the chair of the Ethics Commission may, upon a two-thirds vote of the members of the Ethics Commission, petition the appropriate circuit court for the appointment of a special prosecutor through communication with the board of Directors of the West Virginia prosecuting attorneys Institute.

(b) A special prosecutor shall have the same authority as a county prosecutor to investigate and prosecute persons subject to this article for criminal violations committed in connection with their public office or employment which constitute felonies. No person who is serving as a prosecuting attorney or assistant prosecuting attorney of any county is required to take an additional oath when appointed to serve as a special prosecuting attorney.

(c) The ethics committee shall be authorized to employ and assign the necessary professional and clerical staff to assist any such special prosecutor in the performance of his or her duties.

(d) The special prosecutor shall be empowered to make a presentment to any regularly or specially impaneled grand jury in the appointing circuit court. The special prosecutor shall be empowered to prosecute any person indicted by such grand jury.

WV Legislature