

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1284

To amend title 28, United States Code, to reauthorize and modify the provisions relating to independent counsel.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1993

Mr. GEKAS (for himself and Mr. HYDE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to reauthorize and modify the provisions relating to independent counsel.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Independent Counsel  
5 Act of 1993”.

6 **SEC. 2. EXTENSION.**

7 Section 599 of title 28, United States Code, is  
8 amended by striking “five years” and inserting “eleven  
9 years”.

1 **SEC. 3. APPLICATION TO MEMBERS OF CONGRESS.**

2 Section 591(b) of title 28, United States Code, is  
3 amended—

4 (1) by striking “and” at the end of paragraph  
5 (7);

6 (2) by striking the period at the end of para-  
7 graph (8) and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(9) any Senator, or any Representative in, or  
10 Delegate or Resident Commissioner to, the Con-  
11 gress, or any person who has served as a Senator or  
12 such a Representative, Delegate, or Resident Com-  
13 missioner within the 2-year period before the receipt  
14 of the information under subsection (a) with respect  
15 to conduct that occurred while such person was a  
16 Senator or such a Representative, Delegate, or Resi-  
17 dent Commissioner.”.

18 **SEC. 4. PERIODIC REAPPOINTMENT OF INDEPENDENT**  
19 **COUNSEL.**

20 Section 596 of title 28, United States Code, is  
21 amended by adding at the end the following:

22 “(d) PERIODIC REAPPOINTMENT OF INDEPENDENT  
23 COUNSEL.—If an office of independent counsel has not  
24 terminated before—

25 “(1) the date two years after the original ap-  
26 pointment to that office; or

1           “(2) the end of each succeeding 2-year period;  
2 such counsel shall apply to the division of the court for  
3 reappointment. The court shall first determine whether  
4 the office of that independent counsel should be termi-  
5 nated under subsection (b)(2). If the court determines  
6 that such office will not be terminated under such sub-  
7 section, the court shall reappoint the applicant if the court  
8 determines such applicant remains the appropriate person  
9 to carry out the duties of the office. If not, the court shall  
10 appoint some other person whom it considers qualified  
11 under the standards set forth in section 593 of this title.  
12 If the court has not taken the actions required by this  
13 subsection within 90 days after the end of the applicable  
14 2-year period, then that office of independent counsel shall  
15 terminate at the end of that 90-day period.”.

16 **SEC. 5. PERIODIC REPORTS.**

17           Section 595(a)(2) of title 28, United States Code, is  
18 amended by striking “such statements” and all that fol-  
19 lows through “appropriate” and inserting “annually a re-  
20 port on the activities of such independent counsel, includ-  
21 ing a description of the progress of any investigation or  
22 prosecution conducted by such independent counsel. Such  
23 report need not contain any matter that in the judgment  
24 of the independent counsel should be kept confidential, but  
25 shall provide information adequate to justify the expendi-

1 tures which the office of that independent counsel has  
2 made, and indicate in general terms the state of the work  
3 of the independent counsel”.

4 **SEC. 6. EFFECT OF TERMINATION OF CHAPTER.**

5 Section 599 of title 28, United States Code, is  
6 amended by inserting “, or until 120 days have elapsed,  
7 whichever is earlier” after “completed”.

8 **SEC. 7. SUBPOENA POWER.**

9 Section 592(a)(2) of title 28, United States Code, is  
10 amended by striking “grant immunity, or issue subpoe-  
11 nas” and inserting “or grant immunity, but may issue  
12 subpoenas duces tecum”.

13 **SEC. 8. CONGRESSIONAL REQUESTS.**

14 Section 592(g)(2) of title 28, United States Code, is  
15 amended in the first sentence—

16 (1) by inserting after “request under paragraph  
17 (1)” the following: “with respect to possible viola-  
18 tions of law described in section 591(a) by any per-  
19 son described in section 591(b)”;

20 (2) by striking “subsection (a) or (c) of section  
21 591, as the case may be” and inserting “section  
22 591(a)”.

23 **SEC. 9. ATTORNEY'S FEES.**

24 Section 593(f)(1) of title 28, United States Code, is  
25 amended—

1           (1) by striking “, if no indictment is brought  
2           against such individual pursuant to that investiga-  
3           tion,”; and

4           (2) by striking “during that investigation”.

5 **SEC. 10. INDEPENDENT COUNSEL PER DIEM EXPENSES.**

6           Section 594(b) of title 28, United States Code, is  
7           amended to read as follows:

8           “(b) COMPENSATION.—

9           “(1) IN GENERAL.—Except as provided in para-  
10          graph (2), an independent counsel appointed under  
11          this chapter shall receive compensation at the per  
12          diem rate equal to the annual rate of basic pay pay-  
13          able for level IV of the Executive Schedule under  
14          section 5315 of title 5.

15          “(2) TRAVEL AND LODGING IN WASHINGTON.—  
16          An independent counsel and persons appointed  
17          under subsection (c) shall not be entitled to the pay-  
18          ment of travel and subsistence expenses under sub-  
19          chapter 1 of chapter 57 of title 5, with respect to  
20          duties performed in the District of Columbia after 1  
21          year of service under this chapter.”.

22 **SEC. 11. RESTRICTIONS ON STAFF.**

23          Section 594(c) of title 28, United States Code, is  
24          amended—

1 (1) by inserting after “competitive service.” the  
2 following: “Such employees shall be paid salaries at  
3 levels not to exceed those paid for comparable posi-  
4 tions in the office of United States Attorney for the  
5 District of Columbia under sections 548 and 550 of  
6 this title.”; and

7 (2) by adding at the end the following: “To the  
8 greatest extent possible, an independent counsel  
9 shall use personnel of the Department of Justice, in  
10 lieu of appointing employees, to carry out the duties  
11 of the office of such independent counsel. Not more  
12 than \$500,000 may be expended in any 1-year pe-  
13 riod to compensate employees appointed by an inde-  
14 pendent counsel or detailed to the office of such  
15 independent counsel under this subsection, except to  
16 the extent that an appropriations Act specifically  
17 makes available additional funds for such purpose.”.

18 **SEC. 12. COMPLIANCE WITH POLICIES OF THE DEPART-**  
19 **MENT OF JUSTICE.**

20 Section 594(f) of title 28, United States Code, is  
21 amended—

22 (1) by striking “shall, except where not pos-  
23 sible, comply” and inserting “shall, except where  
24 inconsistent with the purposes of this chapter,  
25 comply”; and

1           (2) by inserting after “criminal laws” the fol-  
2           lowing “, and with respect to expenditures of funds  
3           by the Department”.

4   **SEC. 13. ETHICS ENFORCEMENT.**

5           Section 594(j) of title 28, United States Code, is  
6           amended by adding at the end the following new para-  
7           graph:

8           “(5) ENFORCEMENT.—The Department of Jus-  
9           tice and the Office of Government Ethics have au-  
10          thority to enforce compliance with this subsection.”.

11   **SEC. 14. RESTRICTION ON EXPENDITURES.**

12          Section 594 of title 28, United States Code, is  
13          amended by adding at the end the following:

14          “(l) LIMITATION ON EXPENDITURES.—No funds may  
15          be expended for the operation of any office of independent  
16          counsel after the end of the 2-year period after its estab-  
17          lishment, except to the extent that an appropriations Act  
18          enacted after such establishment specifically makes avail-  
19          able funds for such office for use after the end of that  
20          2-year period.”.

21   **SEC. 15. ADMINISTRATIVE AND COST CONTROLS.**

22          Section 594 of title 28, United States Code, is  
23          amended by adding at the end the following:

24          “(m) ADMINISTRATIVE AND COST CONTROLS.—

1           “(1) ADMINISTRATIVE CONTROLS.—The Direc-  
2           tor of the Administrative Office of the United States  
3           Courts shall provide administrative support and  
4           guidance to each independent counsel. The Adminis-  
5           trator of General Services, in consultation with the  
6           Director of the Administrative Office, shall promptly  
7           provide appropriate office space within a Federal  
8           building for each independent counsel.

9           “(2) COST CONTROLS.—An independent counsel  
10          shall—

11                   “(A) conduct all activities with due regard  
12                   for expense;

13                   “(B) authorize only reasonable expendi-  
14                   tures; and

15                   “(C) promptly upon taking office, assign to  
16                   a specific employee the duty to ensure expendi-  
17                   tures are made in accordance with the prin-  
18                   ciples set forth in subparagraphs (A) and (C).”.

19   **SEC. 16. GAO REPORT.**

20          The Comptroller General of the United States shall  
21          submit to the Congress, not later than 1 year after the  
22          date of the enactment of this Act, a report setting forth  
23          recommendations of ways to improve controls on costs of  
24          offices of independent counsel under chapter 40 of title  
25          28, United States Code.

