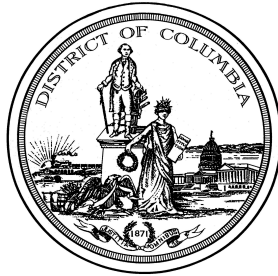


DISTRICT OF COLUMBIA

City Council



Ordinance No. 0017

Introduced by: Deputy Mayor TackoSereigneFall
On behalf of Mayor Bathamza

An ordinance for an Act entitled: "Establishment of an Independent Counsel Act"

AN ACT to establish an Independent Counsel who shall ensure public officials are not above the laws of the District of Columbia, following the historical ineffectiveness of Special Counsels. In doing so, this ordinance establishes the Office of the Independent Counsel and the Independent Counsel-- an individual who shall maintain job security and powers necessary for the equal administration of justice.

TITLE I – OFFICE OF THE INDEPENDENT COUNSEL

Section 101. General Provisions.

- (a) This Act shall be known as the "Establishment of an Independent Counsel Act."
- (b) The doctrine of severability as recognized by common law shall be applied to this Act if any portion is found unconstitutional or invalid.
- (c) This Act shall take effect immediately upon passage into law.

Section 102. Establishment.

- (a) There shall be an Office of the Independent Counsel for the District of Columbia
- (b) Such Office shall be headed by the Independent Counsel, a position that will be appointed by the D.C. mayor with the advice and consent of the Council of the District of Columbia.
- (c) The Independent Counsel shall have the authority to intervene in any case concerning their jurisdiction.
- (d) The Independent Counsel shall have the authority to retain any number of administrative staff to assist in the execution of their duties.

Section 103. Tenure; Removal.

- (a) The Independent Counsel may only be dismissed by the Mayor for cause. The following are recognized as the only grounds on which the Mayor may dismiss the Independent Counsel:
 - (i) Prosecutorial misconduct;
 - (ii) Inactivity;
 - (iii) Abuse of their official capacity for personal or political gain;
 - (iv) Gross misconduct as recognized by the common law of the United States.
- (b) The Independent Counsel shall reserve the right to challenge their removal before a three-judge panel in a municipal-level court in a process known as “Judicial Review of Removal.”
 - (i) If no such court exists or a three-judge panel is not able to be assembled, then the Independent Counsel may seek relief from a three-judge panel in the United States District Court for the District of Columbia.
- (c) The following details the process of “Judicial Review of Removal,” as prescribed by law:
 - (i) Upon dismissal from office, the dismissed official shall have 72 hours to challenge their removal. If they do not commence formal action within this period, then their right to challenge their dismissal shall be considered waived.
 - (ii) An action challenging dismissal shall only extend to civil allegations that the removal was not based on valid cause, as defined in Section 103 (a).

- (iii) Upon the filing of formal action, the Mayor must be served and given notification of their right to appear as a defendant and defend their dismissal of the Independent Counsel.
- (iv) The reviewing judicial body shall act as fact-finders and the judicial procedure will behave much like a civil trial; with the dismissed official acting as the plaintiff and the Mayor acting as the defendant.
- (v) If the dismissed official proves by clear and convincing evidence that their removal was not based on valid cause, then they are entitled to remedy as a matter of law.

(1) Judicial remedy shall only extend to reinstatement to office.

- (d) After a final judgment is rendered by the 3-judge panel, either party may appeal the decision directly to the United States Supreme Court. If neither party seeks appellate review within 5 days of the rendering of the decision, then the right to appeal shall be waived.
- (e) As to preserve the functioning of the Office of the Independent Counsel, while litigation is pending, the Mayor may appoint an Acting Independent Counsel. After the dismissed official exhausts all of their avenues of judicial remedy, then the Mayor may nominate a permanent replacement.
- (f) This section shall not be misconstrued to apply to any other municipal-level positions. This process shall only apply to removals regarding the Independent Counsel.

Section 104. Jurisdiction and Powers; Generally.

- (a) There shall be an Independent Counsel vested with the authority to prosecute in the name of the District of Columbia for all local offenses committed by a public official within the District of Columbia's jurisdiction.
 - (i) For the matter of this title, "public official" shall be defined as anyone who occupies or is running for any office of trust, profit, or honor under the United States or District of Columbia.
- (b) The Independent Counsel shall exercise local civil, criminal, investigatory, and litigatory authority as they see fit to ensure the fair administration of justice and equal enforcement of the laws of the District of Columbia.

- (c) The Independent Counsel shall have the authority to assume control of any investigation, prosecution, or ongoing matter led by the Office of the District Attorney General, provided that they demonstrate there is a public interest in doing such.
 - (i) The Office of the District Attorney General shall also have the ability to refer matters to the Independent Counsel to handle, including investigations, prosecutions, and ongoing litigation.
- (d) The ability to prosecute criminal offenses outlined in Title II of this Act is explicitly reserved to the Independent Counsel. No prosecutorial authority shall pursue any of the listed criminal offenses without the express permission of the Independent Counsel.

Section 105. Council Reports.

- (a) The Independent Counsel shall provide a report to the Council of the District of Columbia and the Mayor on the work of the Office of the Independent Counsel every thirty (30) days.

Section 106. Reporting Mechanism to the Independent Counsel.

- (a) Any member of the District of Columbia Council shall have the capacity to make criminal or civil referrals for the Independent Counsel to investigate and determine whether to prosecute in any court of the United States.
 - (i) The D.C Attorney General, the D.C Mayor, and any candidate for any office of trust, profit, or honor may make referrals as outlined in Section 106(a) of this Act to the Independent Counsel.
- (b) The Independent Counsel may review decisions to prosecute for Contempt of Legislature violations where the District of Columbia Attorney General refuses to. In this review, they may prosecute such violations if they certify that such is in the public interest.

Section 107. Grand Juries; Ability to Prosecute.

- (a) The Independent Counsel shall only prosecute for offenses listed by a True Bill of Indictment approved by a Grand Jury of the United States District Court, except in cases as outlined in Section 106 of this Act.

- (b) This Grand Jury shall have no less than eight (8) members and no more than twelve (12) jurors who shall vote in favor of an indictment by a simple majority.

Section 108. Abolition of Special Counsels.

- (a) The ability of the D.C. Attorney General to appoint “Special Counsel[s]” is hereby abolished due to the conflict of jurisdiction with the Independent Counsel.
- (i) This is due to the historical appointment of Special Counsels who often serve to litigate the interests of the incumbent administration and are not subject to any real accountability.
- (ii) No person shall exercise any duties similar to a ‘Special Counsel’ or characteristics highly similar to that of the Independent Counsel in an attempt to circumvent the provisions of this section.
- (b) No person shall exercise the duties or jurisdiction of the Independent Counsel, except in cases where the office is vacant and the Mayor assigns a delegate to enforce such provisions of this Act.

TITLE II – MISCELLANEOUS CRIMINAL OFFENSES

Section 201. Prosecutorial or Judicial Misconduct.

- (a) Any prosecutor, officer of the court, or judicial official who distorts, subverts, or perverts the fair administration of justice shall be imprisoned for no more than thirty (30) days.

Section 202. Electoral Miscreancy.

- (a) Any person, campaign official, or candidate for public office that engages in an intentional act or attempt to unlawfully manipulate, interfere with, or undermine the integrity, transparency, and fairness of the electoral process or its results shall be imprisoned for no more than thirty (30) days.

Section 203. Unlawful Exertion of Influence Against Appointments.

- (a) Any person who inappropriately or unlawfully uses power, pressure, or coercion to affect the selection or appointment of individuals to public positions or roles for a personal, pecuniary, or any other tangible benefit shall be imprisoned for no more than fifteen (15) days.

Section 204. Conspiracy to Commit Electoral Fraud.

- (a) Any person who runs for any office of profit, trust, or honor in the United States and in the course of such campaign procures or brings about, or has another person procure or bring about the importation of non-citizens to gain citizenship with the primary intention of voting in an election for a specific candidate shall be imprisoned for no more than thirty (30) days.
- (b) Any person who knows or should reasonably know that such behavior outlined in Section 207(a) of this Act is ongoing, has occurred, or will occur and fails to report such to the Independent Counsel shall be imprisoned for no more than twenty-five (25) days.

Section 205. Officially Coerced Political Participation.

- (a) Any person, who, occupying a public office with oversight over its employees, intentionally contacts, communicates with, or solicits said employee(s) to vote or not vote in a certain manner in any election or official proceeding in the United States, where the continuity of such employment is implicit or explicitly threatened or jeopardized by such communication shall be imprisoned for no more than twenty (20) days.
 - (i) This provision shall not apply to political appointees of the United States. I.e., individuals appointed directly by the President of the United States or D.C. Mayor, unless explicitly prohibited or protected in the law.
 - (ii) Individuals not appointed by the President or the respective local chief executive shall be protected from this behavior and shall be defined as an 'employee' for all intents and purposes.

Section 206. Directions to the Manager of the District of Columbia Criminal Code.

- (a) Upon the passage of this ordinance into law, the Manager of the District of Columbia Criminal Code shall be ordered to codify Section 201 through Section 206 of this title into the Trello Board for the District of Columbia Criminal Code.
- (b) Pursuant to § 1.02 of the District of Columbia Criminal Code, Section 201 through Section 206 shall be recognized as felony offenses, and the Manager shall be instructed to label them as such.
- (c) As to the categorization of the aforementioned offenses into chapters, the Manager shall retain discretion and be ordered to categorize the offenses as they see fit.