

(S. B. 26)

(No. 24)

(Approved July 19, 2005)

AN ACT

To include a subsection (8) in Section 10 and amend Section 19 of Act No. 2 of February 23, 1988, as amended, in order to provide that during the course of their tenure, Special Independent Prosecutors or special delegates, as well as the members of the Special Independent Prosecutor Panel may not intervene in any other issue, whether of civil or criminal nature, which has or appear to have conflict of interests with the issue object of the mandate.

STATEMENT OF MOTIVES

The main purpose of Act No. 2 of February 23, 1988 as amended, which creates the office of Special Independent Prosecutor, is precisely to create a body that absolutely prevents the Department of Justice from intervening in judicial processes in which the person accused or defendant is a public officer, thus dispelling doubts as to the purity of the procedures conducted against said official.

However, the present situation is cause of great concern, since the Special Independent Prosecutor who is the only person responsible for the filing, charging, and for the burden of proof in a judicial process against a public officer, as well as the members of the panel, who have the power of deciding whether or not to proceed with the same, and to approve or deny agreements to plead guilty, may also serve, simultaneously, as defense counsels for private citizens who have been accused of committing the same crimes or crimes similar to those for which the public officer is being tried.

We consider that this situation represents an insurmountable conflict of interest, which is contrary to the spirit that gave way to the creation of Act No. 2 of February 23, 1988, as amended. To continue with this practice of being a Special Independent Prosecutor or member of the panel and a defense attorney simultaneously would be an unallowable disruption of what the office of Special Independent Prosecutor should be and represent.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (8) is hereby added to Section 10 of Act No. 2 of February 23, 1988, as amended, to read as follows:

“Section 10.- Special Independent Prosecutor’s Panel – Designation.

(1) ...

...

(8) The members of the Panel shall not intervene in any other affair, of civil, administrative or criminal nature, with common or similar elements to or that have or appear to have conflict of interest with any affair that is or could be the subject of their mandate.”

Section 2.- Section 19 of Act No. 2 of February 23, 1988, as amended, is hereby amended to read as follows:

“Section 19.- Special Independent Prosecutor’s Panel – Other public offices; restrictions.

No person who has been appointed Special Independent Prosecutor shall hold any other public office during his/her term and until the year following the year he/she ceased as such. Provided further, that special independent prosecutors and special delegates during their tenure as Special Prosecutor shall not intervene in any other affair of a civil, administrative or criminal nature having common or similar elements to, or that have or

appear to have a conflict of interest with any matter that is or could be the subject of their mandate.”

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 24 (S.B. 26) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to include a subsection (8) in Section 10 and amend Section 19 of Act No. 2 of February 23, 1988, as amended, in order to provide that during the course of their tenure, Special Independent Prosecutors or special delegates, as well as the members of the Special Independent Prosecutor Panel may not intervene in any other issue, whether of civil or criminal nature, which has or appear to have conflict of interests with the issue object of the mandate,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 1st of February of 2006.

Francisco J. Domenech
Director