

No. 238

AN ACT

SB 1546

Implementing the amendment to Article I, Section 10 of the Constitution of the Commonwealth of Pennsylvania, authorizing courts of common pleas with the approval of the Supreme Court to provide for the initiation of criminal proceedings by information instead of by grand jury indictment; providing for the manner of filing such information; placing duties on the courts, district attorneys, special attorneys appointed by the Attorney General and officers of the court.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Jurisdiction; Clerk.—The several courts of common pleas which have obtained the approval of the Supreme Court of Pennsylvania to provide for the initiation of criminal proceedings by informations instead of by grand jury indictments, shall possess and exercise the same power and jurisdiction as they heretofore possessed in cases of prosecutions upon indictments. The clerk of the court or the officer of the court designated by it, shall file the transcript of proceedings, complaint and all related papers received by it, receive and file informations presented by the district attorney or the special attorney appointed by the Attorney General in the manner provided by law, and record all business of the court relative to criminal prosecutions.

Section 2. Scope of the Act.—This act shall not affect criminal proceedings held before the Municipal Court of Philadelphia, district justices of the peace and magistrates, as now provided by law and rules of criminal procedure, nor, except as herein provided, shall it affect criminal proceedings subsequent to the filing of the information by a district attorney or a special attorney appointed by the Attorney General in the manner provided by law. Except as otherwise provided in this act or to the extent that they are specifically inconsistent with prosecutions initiated by information, existing statutory law applicable to criminal prosecutions initiated by indictment shall be applicable to the information filed by a district attorney or a special attorney appointed by the Attorney General in the manner provided by law hereunder.

Section 3. Duty of District Attorney or Special Attorney to Examine Each Transcript Returned; Necessity of Preliminary Hearing.—(a) Whenever a transcript of proceedings, complaint and all related papers in a criminal proceeding where the defendant has been held for court have been transmitted to the clerk of the common pleas court or the court's designated officer, he, after recording same, shall immediately transmit the documents or a copy thereof to the district attorney or the special attorney appointed by the Attorney General in

the manner provided by law. The district attorney or the special attorney appointed by the Attorney General in the manner provided by law, or their designees, shall have the duty to inquire into and make full examination of all the facts and circumstances connected with each such case to determine if the facts and circumstances warrant the filing of an information or informations premised upon the transcript.

(b) No information shall be filed by the district attorney or the special attorney appointed by the Attorney General in the manner provided by law concerning alleged criminal violations where a preliminary hearing has not been held or properly waived except as provided in the rules of criminal procedure.

Section 4. Disposition of Cases.—The district attorney or the special attorney appointed by the Attorney General in the manner provided by law shall sign all informations. The information shall be filed in such form as the rules of criminal procedure provide. After the filing of the information, he shall not enter a nolle prosequi or dispose of any criminal cases or discharge a prisoner from custody by means of a proceeding in lieu of plea or trial without having obtained the approval of the court.

Section 5. Investigating Grand Juries Not Affected.—No grand jury shall be impaneled in any judicial district where this act is applicable for the purpose of considering bills of indictment: Provided, however, That nothing in this act shall prohibit the impaneling as heretofore of, or affect the functioning of, a grand jury for the purpose of investigating offenses against the criminal laws of the Commonwealth or for any other purpose as provided by law.

Section 6. Effective Date; Repealer.—This act shall take effect immediately but shall be applicable only in those judicial districts which have obtained the approval of the Pennsylvania Supreme Court to substitute informations for grand jury indictments as the method for initiating criminal prosecutions. Thereafter, all acts and parts of acts inconsistent herewith shall not apply in said judicial districts.

APPROVED—The 10th day of October, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 238.



Secretary of the Commonwealth.