

## CHAPTER 44

**AN ACT** concerning the State Commission of Investigation and amending and supplementing P.L. 1968, c.266.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 8 of P.L. 1968, c.266 (C.52:9M-8) is amended to read as follows:

C.52:9M-8 Referral of certain information to Attorney General, exceptions.

8. a. Except as provided in subsection c. of this section, whenever the commission or any employee of the commission obtains any information or evidence of a reasonable possibility of criminal wrongdoing, the commission shall immediately refer such information or evidence to the Attorney General.

b. Except as provided in subsection c. of this section, whenever the commission or any employee of the commission obtains information or evidence of cause for the removal or discipline of a public official or public employee, the commission shall, as soon as practicable, refer such information or evidence to the Attorney General unless the commission shall, by majority vote, determine that special circumstances exist which require the delay in transmittal of the information or evidence.

c. Whenever the commission or any employee of the commission obtains any information or evidence of criminal wrongdoing or misconduct on the part of the Attorney General, the commission shall immediately refer such information or evidence to the Governor, the Senate President and the Speaker of the General Assembly for further direction to the commission pursuant to section 3 of P.L. 1968, c.266 (C.52:9M-3) or for any other action authorized by the laws of this State or of the United States.

d. Whenever the commission or any employee of the commission obtains any information or evidence indicating a reasonable possibility of an unauthorized disclosure of information or a violation of any provision of P.L. 1968, c.266 (C.52:9M-1 et seq.), the commission shall immediately refer such information to the Attorney General.

2. Section 10 of P.L. 1968, c.266 (C.52:9M-10) is amended to read as follows:

C.52:9M-10 Annual, interim reports to Governor, Legislature.

10. The commission shall make an annual report to the Governor and Legislature which shall include its recommendations. The commission shall, consistent with the provisions of sections 7 and 8 of P.L.1996, c.44 (C.52:9M-8.1 and C.52:9M-12.2), make such further interim reports to the Governor and Legislature, or either thereof, as it shall deem advisable, or as shall be required by the Governor or by concurrent resolution of the Legislature.

3. Section 11 of P.L. 1968, c. 266 (C.52:9M-11) is amended to read as follows:

C.52:9M-11 Commission to keep public informed.

11. By such means and to such extent as it shall deem appropriate, the commission shall, consistent with the provisions of sections 7 and 8 of P.L.1996, c.44 (C.52:9M-8.1 and C.52:9M-12.2) keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the State and other activities of the commission.

4. Section 9 of P.L.1979, c.254 (C.52:9M-12.1) is amended to read as follows:

C.52:9M-12.1 Witnesses at hearing, rights, notice, statement.

9. a. No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of P.L.1968, c.266 as amended and supplemented, and a general statement of the subject of the investigation. A copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the commission upon request therefor by the person summoned.

b. A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness

who testifies at a public or private hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the commission shall ask the witness such of the questions as it may deem appropriate to its inquiry.

c. A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

d. A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record.

e. The commission shall make a good faith effort to notify any person whose name the commission believes will be mentioned in a potentially adverse context at a public hearing. Any person whose name is mentioned or will be mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the commission or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either in private or in public or both at a reasonably convenient time to be set by the commission, to appear personally before the commission, and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record.

f. Nothing in this section shall be construed to prevent the commission from granting to witnesses appearing before it, or to persons who claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

5. Section 15 of P.L.1968, c. 266 (C.52:9M-15) is amended to read as follows:

C.52:9M-15 Disclosure of information, violation, penalties; privilege, certain.

15. a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the Governor or commission, or any person other than a member or employee of the commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the commission of such possession or knowledge and to deliver to the Attorney General and the commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the commission who shall violate this section shall be dismissed from his office or discharged from his employment.

b. Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander; provided, however, that nothing in this subsection shall be deemed to grant immunity for any statement made with knowledge of its falsity or with reckless disregard as to whether it was true or false.

c. Nothing contained in this section shall in any way prevent the commission from furnishing information or making reports, as required by this act, or from furnishing information to the Legislature, or to a standing reference committee thereof, pursuant to a resolution duly adopted by a standing reference committee or pursuant to a duly authorized subpoena or subpoena duces tecum, provided, however, that nothing herein shall be deemed to preclude the commission from seeking from a court of competent jurisdiction a protective order to avoid compliance with such

subpena or duces tecum.

6. Section 20 of P.L.1968, c.266 is amended to read as follows:

20. This act shall take effect immediately and remain in effect until July 1, 2002.

C.52:9M-8.1 Written notice to Attorney General of intention to issue report.

7. At least seven days prior to the issuance of a report disclosing any information or evidence of a reasonable possibility of criminal wrongdoing, the State Commission of Investigation shall give written notice to the Attorney General of the commission's intention to issue that report and afford the Attorney General an opportunity to be heard with respect to any objections the Attorney General has to the issuance of the report. At the request of the Attorney General, the commission may delay the issuance of a report containing evidence of a reasonable possibility of criminal wrongdoing for a period of up to 120 days.

C.52:9M-12.2 Copy of report sent to person criticized; response included.

8. a. Whenever a proposed State Commission of Investigation report is critical of a person's conduct, a copy of the relevant portions of the proposed report thereof shall be sent to that person prior to the release of the report. Upon receipt, the person criticized shall have 15 days to submit a written response of a reasonable length which the commission shall include in the report together with any relevant evidence submitted by that person.

b. Any report issued by the commission shall include any relevant evidence of a reasonable length concerning a person criticized in the report which is of an exculpatory nature or which tends to exonerate the criticized person.

c. A report issued by the commission shall include, upon request of the Attorney General, a statement indicating the results of any criminal prosecution or disciplinary action related to the report.

C.52:9M-20 Special committee established in June of 2000.

9. In June of 2000, a special committee shall be established to review the activities of the State Commission of Investigation for the purpose of determining whether the statutory authorization for the commission's operation will be renewed. The special committee shall consist of seven members: three members to be appointed by the Governor, no more than two of whom shall be of the same political party; two members to be appointed by the President of the Senate, no more than one of whom shall be of the same political party and two members to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party. This committee shall submit its report to the Governor and the Legislature no later than January 1, 2001.

Approved June 28, 1996.