

(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.

-SOURCE-

(Added Pub. L. 109-8, title VI, Sec. 602(a), Apr. 20, 2005, 119 Stat. 120.)

-REFTEXT-

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (a), see Effective Date note set out below.

-MISC1-

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as an Effective Date of 2005 Amendment note under section 101 of Title 11.

-End-

-CITE-

28 USC CHAPTER 40 - INDEPENDENT COUNSEL 02/01/2010

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART II - DEPARTMENT OF JUSTICE
CHAPTER 40 - INDEPENDENT COUNSEL

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CHAPTER 40 - INDEPENDENT COUNSEL

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Sec.
591. Applicability of provisions of this chapter.
592. Preliminary investigation and application for appointment of an independent counsel.
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- 594. Authority and duties of an independent counsel.
- 595. Congressional oversight.
- 596. Removal of an independent counsel; termination of office.
- 597. Relationship with Department of Justice.
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AMENDMENTS

1987 - Pub. L. 100-191, Sec. 2, Dec. 15, 1987, 101 Stat. 1293, amended chapter 40 heading and analysis generally, substituting items 591 to 599 for former items 591 to 598.

1986 - Pub. L. 99-554, title I, Sec. 144(g)(1), Oct. 27, 1986, 100 Stat. 3097, substituted "40" for "39" as chapter designation.

1983 - Pub. L. 97-409, Sec. 2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039, substituted "independent counsel" for "special prosecutor" in chapter heading and in items 592, 594, and 596.

-End-

-CITE-

28 USC Sec. 591

02/01/2010

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART II - DEPARTMENT OF JUSTICE
CHAPTER 40 - INDEPENDENT COUNSEL

-HEAD-

Sec. 591. Applicability of provisions of this chapter

-STATUTE-

(a) Preliminary Investigation With Respect to Certain Covered Persons. - The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(b) Persons to Whom Subsection (a) Applies. - The persons referred to in subsection (a) are -

(1) the President and Vice President;

(2) any individual serving in a position listed in section 5312 of title 5;

(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

(4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section

5314 of title 5;

(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

(6) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President; and

(7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.

(c) Preliminary Investigation With Respect to Other Persons. -

(1) In general. - When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(2) Members of congress. - When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(d) Examination of Information to Determine Need for Preliminary Investigation. -

(1) Factors to be considered. - In determining under subsection (a) or (c) (or section 592(c)(2)) whether grounds to investigate exist, the Attorney General shall consider only -

- (A) the specificity of the information received; and
- (B) the credibility of the source of the information.

(2) Time period for making determination. - The Attorney General shall determine whether grounds to investigate exist not later than 30 days after the information is first received. If within that 30-day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 30-day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 30-day period, whether the information is specific and from a credible

source, the Attorney General shall, at the end of that 30-day period, commence a preliminary investigation with respect to that information.

(e) Recusal of Attorney General. -

(1) When recusal is required. - (A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

(2) Requirements for recusal determination. - Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to such information.

-SOURCE-

(Added Pub. L. 95-521, title VI, Sec. 601(a), Oct. 26, 1978, 92 Stat. 1867; amended Pub. L. 97-409, Secs. 3, 4(a), Jan. 3, 1983, 96 Stat. 2039, 2040; Pub. L. 98-473, title II, Sec. 228(b), Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100-191, Sec. 2, Dec. 15, 1987, 101 Stat. 1293; Pub. L. 103-270, Secs. 3(j), (k), 4, June 30, 1994, 108 Stat. 735, 736.)

-MISC1-

AMENDMENTS

1994 - Subsec. (b)(6) to (8). Pub. L. 103-270, Sec. 4(b), redesignated par. (8) as (6) and substituted "; and" for the period at end, added par. (7), and struck out former pars. (6) and (7) which read as follows:

"(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

"(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next