

116TH CONGRESS
1ST SESSION

H. R. 47

To create an alternative prosecutor for certain Federal offenses.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Ms. JACKSON LEE introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To create an alternative prosecutor for certain Federal
offenses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trusted, Reliable, Un-
5 questioned Method of Procedure for Special Counsel Ap-
6 pointment, Limitations, and Powers Act of 2019” or the
7 “TRUMP Special Counsel Act”.

8 **SEC. 2. GROUNDS FOR APPOINTING A SPECIAL COUNSEL.**

9 (a) IN GENERAL.—The Attorney General shall ap-
10 point a Special Counsel when the Attorney General deter-
11 mines that—

1 (1) criminal investigation of a person or matter
2 is warranted;

3 (2) that investigation or prosecution of that
4 person or matter by a United States Attorney's Of-
5 fice or litigating Division of the Department of Jus-
6 tice would present a conflict of interest for the De-
7 partment or other extraordinary circumstances; and

8 (3) under the circumstances, it would be in the
9 public interest to appoint an outside Special Counsel
10 to assume responsibility for the matter.

11 (b) EXTRAORDINARY CIRCUMSTANCES.—For the
12 purposes of subsection (a) extraordinary circumstances
13 exist in any criminal investigation—

14 (1) of the President, Vice President, their
15 spouses or children, or any organization, enterprise,
16 or entity owned by, under the control of, or serving
17 the interests of the President or Vice President; or

18 (2) which involves the activities of agents or en-
19 tities under the control of or allied with a foreign
20 state acting in concert with agents, organizations or
21 entities associated with the President or the Vice
22 President.

1 **SEC. 3. ALTERNATIVES AVAILABLE TO THE ATTORNEY**

2 **GENERAL.**

3 (a) **IN GENERAL.**—When matters are brought to the
4 attention of the Attorney General that might warrant con-
5 sideration of appointment of a Special Counsel, the Attor-
6 ney General may—

7 (1) appoint a Special Counsel;

8 (2) direct that an initial investigation, con-
9 sisting of such factual inquiry or legal research as
10 the Attorney General deems appropriate, be con-
11 ducted in order to better inform the decision; or

12 (3) conclude that under the circumstances of
13 the matter, the public interest would not be served
14 by removing the investigation from the normal proc-
15 esses of the Department, and that the appropriate
16 component of the Department should handle the
17 matter.

18 (b) **MITIGATION OF CONFLICTS OF INTEREST.**—If
19 the Attorney General reaches the conclusion described in
20 subsection (a)(3), the Attorney General may direct that
21 appropriate steps be taken to mitigate any conflicts of in-
22 terest, such as recusal of particular officials.

23 **SEC. 4. QUALIFICATIONS OF THE SPECIAL COUNSEL.**

24 (a) **IN GENERAL.**—An individual named as Special
25 Counsel shall be a lawyer with a reputation for integrity
26 and impartial decisionmaking, and with appropriate expe-

1 rience to ensure both that the investigation will be con-
2 ducted ably, expeditiously and thoroughly, and that inves-
3 tigative and prosecutorial decisions will be supported by
4 an informed understanding of the criminal law and De-
5 partment of Justice policies. The Special Counsel shall be
6 selected from outside the United States Government. Spe-
7 cial Counsels shall agree that their responsibilities as Spe-
8 cial Counsel shall take first precedence in their profes-
9 sional lives, and that it may be necessary to devote their
10 full time to the investigation, depending on its complexity
11 and the stage of the investigation.

12 (b) METHOD OF APPOINTMENT; BACKGROUND IN-
13 VESTIGATION.—The Attorney General shall consult with
14 the Assistant Attorney General for Administration to en-
15 sure an appropriate method of appointment, and to ensure
16 that a Special Counsel undergoes an appropriate back-
17 ground investigation and a detailed review of ethics and
18 conflicts of interest issues. A Special Counsel shall be ap-
19 pointed as a “confidential employee” as defined in section
20 7511(b)(2)(C) of title 5, United States Code.

21 **SEC. 5. JURISDICTION.**

22 (a) ORIGINAL JURISDICTION.—The jurisdiction of a
23 Special Counsel shall be established by the Attorney Gen-
24 eral. The Attorney General shall provide to the Special
25 Counsel a specific factual statement of the matter to be

1 investigated. The jurisdiction of a Special Counsel shall
2 also include the authority to investigate and prosecute
3 Federal crimes committed in the course of, and with intent
4 to interfere with, the Special Counsel's investigation, such
5 as perjury, obstruction of justice, destruction of evidence,
6 and intimidation of witnesses; and to conduct appeals arising
7 out of any matter being investigated or prosecuted.

8 (b) ADDITIONAL JURISDICTION.—If in the course of
9 an investigation the Special Counsel concludes that additional
10 jurisdiction beyond that specified in the original jurisdiction
11 is necessary in order to fully investigate and resolve the matters
12 assigned, or to investigate new matters that come to light in the
13 course of the investigation, the Special Counsel shall consult with
14 the Attorney General, who will determine whether to include the
15 additional matters within the Special Counsel's jurisdiction or
16 assign them elsewhere.

18 (c) CIVIL AND ADMINISTRATIVE JURISDICTION.—If
19 in the course of an investigation the Special Counsel determines
20 that administrative remedies, civil sanctions or other governmental
21 action outside the criminal justice system might be appropriate,
22 the Special Counsel shall consult with the Attorney General with
23 respect to the appropriate component to take any necessary action.
24 A Special Counsel shall not have civil or administrative authority un-

1 less specifically granted such jurisdiction by the Attorney
2 General.

3 **SEC. 6. STAFF.**

4 A Special Counsel may request the assignment of ap-
5 propriate Department employees to assist the Special
6 Counsel. The Department shall gather and provide the
7 Special Counsel with the names and résumés of appro-
8 priate personnel available for detail. The Special Counsel
9 may also request the detail of specific employees, and the
10 office for which the designated employee works shall make
11 reasonable efforts to accommodate the request. The Spe-
12 cial Counsel shall assign the duties and supervise the work
13 of such employees while they are assigned to the Special
14 Counsel. If necessary, the Special Counsel may request
15 that additional personnel be hired or assigned from out-
16 side the Department. All personnel in the Department
17 shall cooperate to the fullest extent possible with the Spe-
18 cial Counsel.

19 **SEC. 7. POWERS AND AUTHORITY.**

20 Subject to the limitations in section 8, the Special
21 Counsel shall exercise, within the scope of the Special
22 Counsel's jurisdiction, the full power and independent au-
23 thority to exercise all investigative and prosecutorial func-
24 tions of any United States Attorney. Except as provided
25 in this part, the Special Counsel shall determine whether

1 and to what extent to inform or consult with the Attorney
2 General or others within the Department about the con-
3 duct of the Special Counsel's duties and responsibilities.

4 **SEC. 8. CONDUCT AND ACCOUNTABILITY.**

5 (a) RULES OF THE DEPARTMENT OF JUSTICE.—A
6 Special Counsel shall comply with the rules, regulations,
7 procedures, practices and policies of the Department of
8 Justice. The Special Counsel shall consult with appro-
9 priate offices within the Department for guidance with re-
10 spect to established practices, policies and procedures of
11 the Department, including ethics and security regulations
12 and procedures. Should the Special Counsel conclude that
13 the extraordinary circumstances of any particular decision
14 would render compliance with required review and ap-
15 proval procedures by the designated Departmental compo-
16 nent inappropriate, the Special Counsel may consult di-
17 rectly with the Attorney General.

18 (b) SUPERVISION BY OFFICIALS OF DEPARTMENT OF
19 JUSTICE.—The Special Counsel shall not be subject to the
20 day-to-day supervision of any official of the Department.
21 However, the Attorney General may request that the Spe-
22 cial Counsel provide an explanation for any investigative
23 or prosecutorial step, and may after review conclude that
24 the action is so inappropriate or unwarranted under estab-
25 lished Departmental practices that it should not be pur-

1 sued. In conducting that review, the Attorney General will
2 give great weight to the views of the Special Counsel. If
3 the Attorney General concludes that a proposed action by
4 a Special Counsel should not be pursued, the Attorney
5 General shall notify Congress as specified in section
6 11(a)(3).

7 (c) ETHICAL DUTIES.—The Special Counsel and
8 staff shall be subject to disciplinary action for misconduct
9 and breach of ethical duties under the same standards and
10 to the same extent as are other employees of the Depart-
11 ment of Justice. Inquiries into such matters shall be han-
12 dled through the appropriate office of the Department
13 upon the approval of the Attorney General.

14 (d) DISCIPLINE AND REMOVAL.—The Special Coun-
15 sel may be disciplined or removed from office only by the
16 personal action of the Attorney General. The Attorney
17 General may remove a Special Counsel for misconduct,
18 dereliction of duty, incapacity, conflict of interest, or for
19 other good cause, including violation of Departmental poli-
20 cies. The Attorney General shall inform the Special Coun-
21 sel in writing of the specific reason for the removal.

22 **SEC. 9. NOTIFICATION AND REPORTS BY THE SPECIAL**
23 **COUNSEL.**

24 (a) BUDGET.—

1 (1) A Special Counsel shall be provided all ap-
2 propriate resources by the Department of Justice.
3 Within the first 60 days of appointment, the Special
4 Counsel shall develop a proposed budget for the cur-
5 rent fiscal year with the assistance of the Justice
6 Management Division for the Attorney General’s re-
7 view and approval. Based on the proposal, the Attor-
8 ney General shall establish a budget for the oper-
9 ations of the Special Counsel. The budget shall in-
10 clude a request for assignment of personnel, with a
11 description of the qualifications needed.

12 (2) Thereafter, 90 days before the beginning of
13 each fiscal year, the Special Counsel shall report to
14 the Attorney General the status of the investigation,
15 and provide a budget request for the following year.
16 The Attorney General shall determine whether the
17 investigation should continue and, if so, establish the
18 budget for the next year.

19 (b) NOTIFICATION OF SIGNIFICANT EVENTS.—The
20 Special Counsel shall notify the Attorney General of events
21 in the course of the investigation in conformity with the
22 Departmental guidelines with respect to Urgent Reports.

23 (c) CLOSING DOCUMENTATION.—At the conclusion of
24 the Special Counsel’s work, the Special Counsel shall pro-
25 vide the Attorney General with a confidential report ex-

1 plaining the prosecution or declination decisions reached
2 by the Special Counsel.

3 **SEC. 10. NOTIFICATION AND REPORTS BY THE ATTORNEY**

4 **GENERAL.**

5 (a) NOTIFICATION.—The Attorney General shall no-
6 tify the Chairman and Ranking Minority Member of the
7 Judiciary Committees of each House of Congress, with an
8 explanation for each action—

9 (1) upon appointing a Special Counsel;

10 (2) upon removing any Special Counsel; and

11 (3) upon conclusion of the Special Counsel’s in-
12 vestigation, including, to the extent consistent with
13 applicable law, a description and explanation of in-
14 stances (if any) in which the Attorney General con-
15 cluded that a proposed action by a Special Counsel
16 was so inappropriate or unwarranted under estab-
17 lished Departmental practices that it should not be
18 pursued.

19 (b) DELAY OF NOTIFICATION.—The notification re-
20 quirement in subsection (a)(1) of this section may be
21 tolled by the Attorney General upon a finding that legiti-
22 mate investigative or privacy concerns require confiden-
23 tiality. At such time as confidentiality is no longer needed,
24 the notification shall be provided.

1 (c) PUBLIC RELEASE.—The Attorney General may
2 determine that public release of these reports would be
3 in the public interest, to the extent that release would
4 comply with applicable legal restrictions. All other releases
5 of information by any Department of Justice employee,
6 including the Special Counsel and staff, concerning mat-
7 ters handled by Special Counsels shall be governed by the
8 generally applicable Departmental guidelines concerning
9 public comment with respect to any criminal investigation,
10 and relevant law.

11 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—There are authorized to be appro-
13 priated to carry out this Act \$100,000,000 for each of
14 the fiscal years 2020 through 2024.

15 (b) AVAILABILITY.—Funds appropriated under sub-
16 section (a) shall remain available until expended.

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