

RULE 41. Appointment of Special Prosecutor

From time to time the Hamilton County Prosecutor is faced with a situation that prevents the Hamilton County Prosecutor's Office from handling a criminal case. The following must take place before a special prosecutor can be appointed.

- (A) The Hamilton County Prosecutor must make application, in writing, to the Presiding Judge of the Common Pleas Court that a special prosecutor is needed;
- (B) If such application is made, the Hamilton County Prosecutor shall endeavor to propose someone who will handle the case for no fee;
- (C) If a special prosecutor needs to be appointed and paid, the rate of pay shall be set at a reasonable rate. Any charges for expenses shall be made separately. Invoices shall be presented to the Court Administrator for review prior to submitting to the judge. Payment shall be made by the County Treasurer in accordance with Revised Code 2941.63;
- (D) The special prosecutor shall endeavor to bring the case to indictment or if there is insufficient evidence to indict, make such a determination within sixty (60) days from the date of appointment;
- (E) The special prosecutor shall, to the extent possible, utilize already existing government resources in the investigation and prosecution of the alleged criminal conduct as opposed to expending public funds for independent contractors;
- (F) For all matters relating to the appointment of a special prosecutor, the fees to be paid the special prosecutor as well as any pre-indictment legal rulings, shall be made by the Presiding Judge of the Court of Common Pleas. That judge shall continue to decide these matters even after he or she is not Presiding Judge. The Presiding Judge may, by entry, designate another Common Pleas Judge to handle pre-indictment matters involving a special prosecutor and, if this is done, by entry, that judge shall handle the matter with all the duties of the Presiding Judge including the payment of fees;
- (G) The Presiding Judge or the designee performing the duties set forth in the preceding paragraph shall not be eligible to be the trial judge in the case or cases arising out of the activities of the special prosecutor. The Presiding Judge or his designee's ability to render legal rulings in the case shall end upon indictment, individual assignment of the case to a judge or, if there is no indictment, upon the termination of the appointment of the special prosecutor.

Effective: (March 1, 2023)