

CHAPTER 178

AN ACT concerning municipal prosecutors and amending P.L.1999, c.349.

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

1. Section 5 of P.L.1999, c.349 (C.2B:25-5) is amended to read as follows:

C.2B:25-5 Duties of municipal prosecutor; use of special counsel, private attorneys.

5. a. A municipal prosecutor, except as provided by subsection b. of this section and sections 6 and 7 of this act, shall represent the State, the county or the municipality in the prosecution of all offenses within the statutory jurisdiction of the municipal court as defined by law; including municipal ordinance and municipal code violations pertaining to zoning, land or property use regulation, property maintenance, building or construction. Such other local officials as may be deemed appropriate may be called by the municipal prosecutor in such prosecutions. Nothing contained herein shall prohibit a municipality from hiring special counsel to act as municipal prosecutor for these types of offenses. A municipal prosecutor shall be responsible for handling all phases of the prosecution of an offense, including but not limited to discovery, pretrial and post-trial hearings, motions, dismissals, removals to Federal District Court and other collateral functions authorized to be performed by the municipal prosecutor by law or Rule of Court. As used in this subsection, the term "post-trial hearing" shall not include de novo appeals in Superior Court.

b. A municipal prosecutor may, with the approval of the court and pursuant to the Rules of Court, authorize private attorneys to prosecute citizen complaints filed in the municipal court. A municipal prosecutor may, with the approval of the court, decline to participate in municipal court proceedings in which the defendant is not represented by counsel. The court shall afford the citizen complainant an opportunity to be heard prior to determining whether to approve a municipal prosecutor's decision to authorize a private attorney to prosecute a citizen complaint or to decline to participate in a municipal court proceeding in which the defendant is not represented by counsel. When the municipal prosecutor declines to prosecute, the prevailing complainant may make an application to the court for counsel fee reimbursement to be paid out of applicable fines, but such reimbursement shall not exceed the amount of the applicable fines. Upon a finding that a conflict of interest precludes a municipal prosecutor from participating in a proceeding, the court shall excuse the municipal prosecutor and may, in such a case, request the county prosecutor to provide representation in accordance with section 6 of this act unless the municipality has provided for alternative representation.

c. A municipal prosecutor may at any time move before the municipal court to amend or dismiss any complaint for good cause shown in accordance with the Rules of Court.

2. This act shall take effect on April 13, 2000.

Approved January 8, 2001.