



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 040773

Introduced September 23, 2004

Councilmembers Nutter, Kenney and DiCicco

**Referred to the
Committee on Law and Government**

AN ORDINANCE

Amending Chapter 20-700 of The Philadelphia Code, entitled "Defense and Indemnification," by amending the terms and conditions under which the City provides defense and indemnification to its officers and employees in criminal matters, including grand jury investigations, and by requiring certain reports by the City Solicitor concerning such representation of City officers and employees; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 20-700 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 20-700. DEFENSE AND INDEMNIFICATION

* * *

§20-702. Representation by City.

(1) The City Solicitor shall defend and the City of Philadelphia shall indemnify and hold harmless the officers and employees of the City, whether currently employed by the City or not, against and from any and all personal liabilities, actions, causes of action, and any and all claims made against them whatever for acts performed within the scope of their employment.

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(2) *No representation shall be provided to any City officer or employee in a criminal matter, including a grand jury investigation, unless:*

(a) *The officer or employee makes a written request for such representation to the City Solicitor, setting forth the purpose and need for such representation;*

(b) *A copy of such written request is provided to such officer or employee's appointing authority. If an elected official makes such written request, the elected official shall provide a copy to the Mayor, the Council President and Chief Clerk of Council;*

(c) *The City Solicitor approves such request in writing; and*

(d) *The City Solicitor includes in the written approval of such request a "reservation of rights" provision that sets forth the City's right to cease providing representation and to seek reimbursement from the officer or employee of the expenses of representation previously incurred if the officer or employee is convicted of or pleads guilty or nolo contendere to any criminal charge arising out of the matters for which representation was provided, or if the City Solicitor otherwise determines that representation was provided for acts not performed within the scope of employment. The City Solicitor may also include in such "reservation of rights" provision a statement that the officer or employee may choose to obtain private counsel in the matter at his or her own expense.*

(3) *It shall be the duty of the City Solicitor to enforce "reservation of rights" provisions required by subsection (2)(d), and to seek reimbursement of the expenses of representation to the maximum feasible extent permitted under such provisions.*

§20-703. Reports.

(1) *On the first working day of each month, the City Solicitor shall file with the Mayor, the Council President, and the Chief Clerk of Council a report setting forth:*

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(a) *The name of each outside lawyer or law firm then being retained by the City to represent a City officer or employee in a criminal matter, including a grand jury investigation, the name and title of each City officer or employee such lawyer or law firm is representing, and the hourly or other rate being paid to each such lawyer or law firm.*

(b) *The total of all payments made during the previous month to each outside lawyer and law firm for representing a City officer or employee in a criminal matter, including a grand jury investigation, and the total of all payments made to each such lawyer and law firm for such representation since the date they were first retained by the City.*

(c) *The first monthly report filed under this subsection shall include a list of each outside lawyer and law firm that represented a City officer or employee in a criminal matter, including a grand jury investigation, at any time during 2004, the name and title of each City officer or employee such lawyer or law firm represented, the hourly or other rate paid to each such lawyer or law firm, and the total of all payments made by the City to such lawyer or law firm for such representation prior to the date of the report.*

(2) *If the City Solicitor is of the opinion that disclosure of any of the information that must be reported under subsection (1) is prohibited by law, the City Solicitor shall, in lieu of reporting such information, detail in the required monthly report the information that is being withheld, cite the specific provision of law that prohibits disclosure, and explain why such provision of law applies to the particular information being withheld.*

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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