

CHAPTER 9M  
STATE COMMISSION OF INVESTIGATION  
*New Jersey Statutes Annotated 52:9M-1 et seq.*

L.1968, c.266 § 1, eff. Sept. 4, 1968. Amended by L.1970, c. 263, § 1, eff. Nov. 2, 1970; L.1979, c. 254, § 1, eff. Dec. 21, 1979; L.1984, c. 110, § 1, eff. Aug. 3, 1984; L.1985, c. 119, § 1, eff. April 9, 1985; L.1999, c. 380, § 4, eff. Jan. 14, 2000; L.2001, c. 369, § 1, eff. Jan. 8, 2002; L.2005, c. 58, § 1, eff. March 28, 2005.

*52:9M-1. Creation of commission; membership; compensation; vacancies; vote necessary.* There is hereby created a permanent State Commission of Investigation. The commission shall consist of four members, to be known as commissioners.

Two members of the commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General Assembly. Each member shall serve for a term of four years and until the appointment and qualification of his successor. No person shall serve, in succession, more than two four-year terms and any portion of an unexpired term as a member of the commission. The Governor shall designate one of the members to serve as chairman of the commission.

The members of the commission appointed by the President of the Senate and the Speaker of the General Assembly and at least one of the members appointed by the Governor shall be attorneys admitted to the bar of this State. No member or employee of the commission shall hold any other public office or public employment. No member of the commission shall have held any elective office or have been a candidate for any elective office within the one year preceding his appointment to the commission. No member of the commission shall hold any elective office or be a candidate for any elective office within the one year subsequent to his termination of service as a member of the commission. Not more than two of the members shall belong to the same political party.

Each member of the commission shall receive an annual salary of \$35,000. Each member shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside of the State.

Vacancies on the commission shall be filled for the unexpired terms in the same manner as original appointments. Vacancies on the commission shall be filled by the appropriate appointing authority within 120 days. If the appropriate appointing authority does not fill a vacancy within that time period, the vacancy shall be filled by the Chief Justice of the Supreme Court within 60 days. A vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

Any determination made by the commission shall be by majority vote. "Majority vote" mean the affirmative vote of at least three members of the commission if there are no vacancies on the commission or the affirmative vote of at least two members of the commission if there is a vacancy.

*52:9M-1.1 Terms of members appointed after December 1, 1978.* Notwithstanding the provisions of section 1 of this act (C.52:9M-1) and in order to effect the staggering of the terms of members of the commission notwithstanding the term for which they were originally appointed, the terms of the members appointed after December 1, 1978 shall be as follows: the first member appointed by the Governor, 36 months; the second member appointed by the Governor, 18 months; the member appointed by the President of the Senate, 30 months; the member appointed by the Speaker of the General Assembly, 24 months. Thereafter, the terms of the members shall be as provided in P.L.1968, c.266, s.1 (C.52:9M-1)

*52:9M-1.2 Terms of members of the State Commission of Investigation serving on or appointed after March 28, 2005.*

a. End of Terms Notwithstanding the provisions of section 1 of P.L.1968, c.266 (C.52:9M-1) and the terms for which the members were originally appointed, the terms of the members in office on the effective date of P.L.2005, c. 58 (C.52:9M-1.2 et al.) shall end before 12 o'clock noon on the following dates: the term of the member appointed by the Governor on or after November 5, 2004 would end on December 31, 2008; the term of the member appointed by the Governor after December 31, 2001 but before November 2004 would end on December 31, 2007; the term of the member appointed by the President of the Senate before December 31, 2002 would end on December 31, 2006; and the term of the member appointed by the Speaker of the General Assembly after December 31, 2001 would end on December 31, 2005.

b. Beginning of Terms. After terms end pursuant to subsection a. of this section, the four-year terms of the members appointed shall be as provided in section 1 of P.L.1968, c.266 (C. 52:9M-1) in order to effect the staggering of terms, with each term of the members next appointed beginning at 12 o'clock noon as follows: one appointment by the Governor for which the member's term shall begin on December 31, 2008; a second appointment by the Governor for which the member's term shall begin on December 31, 2007; an appointment by the Senate President for which the member's term shall begin on December 31, 2006; and an appointment by the Speaker of the General Assembly for which the member's term shall begin on December 31, 2005.

*52:9M-1.3 Limitations on terms of certain members.* Any member of the State Commission of Investigation who is currently serving the member's first or second three-year term or portion of an unexpired term on the effective date of P.L.2005, c. 58 (C.52:9M-1.2 et al.) shall be subject to the provisions of subsection a. of section 5 of P.L.2005, c. 58 (C.52:9M-1.2) and shall be eligible to be reappointed to the commission for not more than one additional four-year term beginning as set forth in subsection b. of section 5 of P.L.2005, c. 58 (C.52:9M-1.2).

*52:9M-2. Duties and powers.* The commission shall have the duty and power to conduct investigations in connection with:

- a. The faithful execution and effective enforcement of the laws of the State, with particular reference but not limited to organized crime and racketeering;
- b. The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;
- c. Any matter concerning the public peace, public safety and public justice.

*52:9M-3. Investigation of removal of public officers and recommendations on administration and enforcement of law.* At the direction of the Governor or by concurrent resolution of the Legislature the commission shall conduct investigations and otherwise assist in connection with:

- a. The removal of public officers by the Governor;
- b. The making of recommendations by the Governor to any other person or body, with respect to the removal of public officers;
- c. The making of recommendations by the Governor to the Legislature with respect to changes in or additions to existing provisions of law required for the more effective enforcement of the law;
- d. The Legislature's consideration of changes in or additions to existing provisions of law required for the more effective administration and enforcement of the law.

*52:9M-4. Investigation of departments or agencies.* At the direction or request of the Legislature by concurrent resolution or of the Governor or of the head of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, the commission shall investigate the management or affairs of any such department, board, bureau, commission, authority or other agency; provided, however, that if the commission determines that the requests for investigations from the Legislature, the Governor or the head of any department, board, bureau, commission, authority or other agency created by the State or to which the State is a party, exceed the commission's capacity to perform such investigations, they may, by resolution, ask the Governor or the Attorney General or the Legislature in the case of a legislative request, to review those requests upon which it finds itself unable to proceed.

*52:9M-4.1. Public hearing; notice to President of Senate and Speaker of General Assembly.* Within 5 days after the adoption of a resolution authorizing a public hearing and not less than 7 days prior to that public hearing, the commission shall advise the President of the Senate and the Speaker of the General Assembly that such public hearing has been scheduled. The President and the Speaker shall, after reviewing the subject matter of the hearing, refer such notice to the appropriate standing committee of each house.

*52:9M-4.2. Advice to Governor and legislature of recommendations.* The commission shall, within 120 days of holding a public hearing, advise the Governor and the Legislature of any recommendations for administrative or legislative action which they have developed as a result of the public hearing.

*52:9M-4.3. Recommendations concerning pending bill or resolution; advice to sponsor and chairman of standing legislative committee.* Prior to making any recommendations concerning a bill or resolution pending in either house of the Legislature, the commission shall advise the sponsor of such bill or resolution and the chairman of any standing legislative committee to which such bill or resolution has been referred of such recommendations.

*52:9M-5. Cooperation with law enforcement officials.* Upon request of the Attorney General, a county prosecutor or any other law enforcement official, the commission shall co-operate with, advise and assist them in the performance of their official powers and duties.

*52:9M-6. Investigations of federal law violations.* The commission shall co-operate with departments and officers of the United States Government in the investigation of violations of the Federal Laws within this State.

AN ACT ESTABLISHING A CODE OF FAIR PROCEDURE  
TO GOVERN STATE INVESTIGATING AGENCIES  
*New Jersey Statutes Annotated 52:13E-1 et seq.*

L. 1968, c. 376 as amended by L. 1984, c. 110

*52:13E-1. Definitions.* As used in this act:

(a) "Agency" means any of the following while engaged in an investigation or inquiry: (1) the Governor or any person or persons appointed by him acting pursuant to P.L. 1941, c. 16 s. 1 (C. 52:15-7), (2) any temporary State commission or duly authorized committee thereof having the power to require testimony or the production of evidence by subpoena, or (3) any legislative committee or commission having the powers set forth in Revised Statutes 52:13-1.

(b) "Hearing" means any hearing in the course of an investigatory proceeding (other than a preliminary conference or interview at which no testimony is taken under oath) conducted before an agency at which testimony or the production of other evidence may be compelled by subpoena or other compulsory process.

(c) "Public hearing" means any hearing open to the public, or any hearing, or such part thereof, as to which testimony or other evidence is made available or disseminated to the public by the agency.

(d) "Private hearing" means any hearing other than a public hearing.

*52:13E-2. Personal service.* No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of this act, and a general statement of the subject of the investigation. A copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the agency upon request therefor by the person summoned.

*52:13E-3. Right to counsel; submission of proposed questions.* A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the agency shall ask the witness such of the questions as it may deem appropriate to its inquiry.

*52:13E-4. Records of public hearings; copies.* A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

*52:13E-5. Sworn statement by witness; incorporation in the record.* A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record of the investigatory proceeding.

*52:13E-6. Persons affected by proceedings; appearance or statement of facts.* Any person whose name is mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the agency or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either to appear personally before the agency and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative at the option of the agency, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record of the investigatory proceeding.

*52:13E-7. Rights or privileges granted by agencies.* Nothing in this act shall be construed to prevent an agency from granting to witnesses appearing before it, or to persons who claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

*52:13E-8. Dissemination of evidence adduced at private hearing.* Except in the course of subsequent hearing which is open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview conducted before a single-member agency in the course of its investigation shall be disseminated or made available to the public by said agency, its counsel or employees without the approval of the head of the agency. Except in the course of a subsequent hearing open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview before a committee or other multimember investigating agency shall be disseminated or made available to the public by any member of the agency, its counsel or employees, except with the approval of a majority of the members of such agency. Any person who violates the provisions of this subdivision shall be adjudged a disorderly person.

*52:13E-9. Hearing conducted by temporary state commission.* No temporary State commission having more than two members shall have the power to take testimony at a public or private hearing unless at least two of its members are present at such hearing.

Nothing in this section, however, shall be deemed to prevent the State Commission of Investigation from conducting private hearings, on an investigation previously undertaken by a majority of the members of the commission, with one commissioner present, when so designated by resolution pursuant to the provisions of section 12 of P.L. 1968, c. 266 (C. 52:9M-12).

*52:13E-10. Right of members to file statement of minority views.* Nothing in this act shall be construed to affect, diminish or impair the right, under any other provision of law, rule or custom, of any member or group of members of a committee or other multimember investigating agency to file a statement or statements of minority views to accompany and be released with or subsequent to the report of the committee or agency.

*52:9M-7. Law enforcement problems extending into other states.* The commission shall examine into matters relating to law enforcement extending across the boundaries of the State into other States; and may consult and exchange information with officers and agencies of other States with respect to law enforcement problems of mutual concern to this and other States.

*52:9M-8. Information or evidence of reasonable possibility of criminal wrongdoing or misconduct of public officer; unauthorized disclosure of information or violation of act; referral.*

a. Except as provided in subsection c. of this section, whenever the commission or any employee of the commission obtains any information or evidence of a reasonable possibility of criminal wrongdoing, the commission shall immediately refer such information or evidence to the Attorney General.

b. Except as provided in subsection c. of this section, whenever the commission or any employee of the commission obtains information or evidence of cause for the removal or discipline of a public official or public employee, the commission shall, as soon as practicable, refer such information or evidence to the Attorney General unless the commission shall, by majority vote, determine that special circumstances exist which require the delay in transmittal of the information or evidence.

c. Whenever the commission or any employee of the commission obtains any information or evidence of criminal wrongdoing or misconduct on the part of the Attorney General, the commission shall immediately refer such information or evidence to the Governor, the Senate President and the Speaker of the General Assembly for further direction to the commission pursuant to section 3 of P.L. 1968, c.266 (C. 52:9M-3) or for any other action authorized by the laws of this State or of the United States.

d. Whenever the commission or any employee of the commission obtains any information or evidence indicating a reasonable possibility of an unauthorized disclosure of information or a violation of any provision of P.L. 1968, c.266 (C.52:9M-1 et seq.), the commission shall immediately refer such information to the Attorney General.

*52:9M-8.1. Written notice to Attorney General of intention to issue report.* At least seven days prior to the issuance of a report disclosing any information or evidence of a reasonable possibility of criminal wrongdoing, the State Commission of Investigation shall give written notice to the Attorney General of the commission's intention to issue that report and afford the Attorney General an opportunity to be heard with respect to any objections the Attorney General has to the issuance of the report. At the request of the Attorney General, the commission may delay the issuance of a report containing evidence of a reasonable possibility of criminal wrongdoing for a period of up to 120 days.

*52:9M-9. Employment of personnel; duties; compensation.* The commission shall be authorized to appoint and employ and at pleasure remove an executive director, counsel, investigators, accountants, and such other persons as it may deem necessary, without regard to civil service; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. All commission personnel shall be deemed confidential employees for purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c. 100 (C.34:13A-1 et seq.). Investigators and accountants appointed by the commission shall be and have all the powers of peace officers.

*52:9M-10. Annual report; recommendations; interim reports.* The commission shall make an annual report to the Governor and Legislature which shall include its recommendations. The commission shall, consistent with the provisions of sections 7 and 8 of P.L.1996, c.44 (C. 52:9M-8.1 and C.52:9M-12.2) make such further interim reports to the Governor and Legislature, or either thereof, as it shall deem advisable, or as shall be required by the Governor or by concurrent resolution of the Legislature.

*52:9M-11. Informing public of commission's activities.* By such means and to such extent as it shall deem appropriate, the commission shall, consistent with the provisions of sections 7 and 8 of P.L.1996, c.44 (C. 52:9M-8.1 and C.52:9M-12.2) keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the State and other activities of the commission.

*52:9M-12. Authority of commission.* With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the commission shall be authorized as follows:

a. To conduct any investigation authorized by this act at any place within the State; and to maintain offices, hold meetings and function at any place within the State as it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the commission to preside over any such hearing; no public hearing shall be held except after adoption of a resolution by majority vote, and no public hearing shall be held by the commission until after the Attorney General and the appropriate county prosecutor or prosecutors shall have been given at least seven days' written notice of the commission's intention to hold such a public hearing and afforded an opportunity to be heard in respect to any objections they or either of them may have to the commission's holding such a hearing;

c. To administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by a majority of the members of the commission, every witness attending before the commission shall be examined privately and the commission shall not make public the particulars of such examination. The commission shall not have the power to take testimony at a private hearing or at a public hearing unless at least two of its members are present at such hearing, except that the commission shall have the power to conduct private hearings, on an investigation previously undertaken by a majority of the members of the commission, with one commissioner present, when so designated by resolution;

e. Witnesses summoned to appear before the commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If any person subpoenaed pursuant to this section shall neglect or refuse to obey the command of the subpoena, any judge of the superior court or any municipal court may, on proof by affidavit of service of the subpoena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpoena, issue a warrant for the arrest of said person to bring him before the judge, who is authorized to proceed against such person as for a contempt of court.

*52:9M-12.1 Public hearings; witnesses; rights; record; notice to person whose name to be mentioned.*

a. No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of P.L.1968, c.266 as amended and supplemented, and a general statement of the subject of the investigation. A copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the commission upon request therefor by the person summoned.

b. A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public or private hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the commission shall ask the witness such of the questions as it may deem appropriate to its inquiry.

c. A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

d. A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record.

e. The commission shall make a good faith effort to notify any person whose name the commission believes will be mentioned in a potentially adverse context at a public hearing. Any person whose name is mentioned or will be mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the commission or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either in private or in public or both at a reasonably convenient time to be set by the commission, to appear personally before the commission, and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record.

f. Nothing in this section shall be construed to prevent the commission from granting to witnesses appearing before it, or to persons who claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

*52:9M-12.2. Good faith effort to notify person criticized; response included in report*

a. The commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.

- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.
- c. A person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the commission may redact from the response any discussion or reference to a person who has not received a notice under subsection a. of this section.
- d. Nothing in this section shall be construed to prevent the commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.
- e. Notwithstanding the provisions of R.S.1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.

*52:9M-13. Construction of sections 2 through 12 of act.* Nothing contained in sections 2 through 12 of this act shall be construed to supersede, repeal or limit any power, duty or function of the Governor or any department or agency of the State, or any political subdivision thereof, as prescribed or defined by law.

*52:9M-14. Cooperation and assistance of state departments and agencies.* The commission may request and shall receive from every department, division, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, or of any political subdivision thereof, co-operation and assistance in the performance of its duties.

*52:9M-15. Disclosure of or inducement to disclose name of witness or information; privileged communications.*

a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the Governor or commission, or any person other than a member or employee of the commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the commission of such possession or knowledge and to deliver to the Attorney General and the commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the commission who shall violate this section shall be dismissed from his office or discharged from his employment.

b. Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander; provided, however, that nothing in this subsection shall be deemed to grant immunity for conduct that was outside the scope of his employment or constituted a crime, actual fraud, actual malice or willful misconduct.

c. Nothing contained in this section shall in any way prevent the commission from furnishing information or making reports, as required by this act, or from furnishing information to the Legislature, or to a standing reference committee thereof, pursuant to a resolution duly adopted by a standing reference committee or pursuant to a duly authorized subpoena or subpoena duces tecum, provided, however, that nothing herein shall be deemed to preclude the commission from seeking from a court of competent jurisdiction a protective order to avoid compliance with such subpoena or subpoena duces tecum.

d. Nothing in P.L.1963, c. 73 (C.47:1A-1 et seq.), as amended and supplemented by P.L.2001 c. 404, shall be construed to require the commission to disclose any information acquired or any records created, except as provided by this section.

*52:9M-16. Exhibits; impounding by court.* Upon the application of the commission, or a duly authorized member of its staff, the Superior Court or a judge thereof may impound any exhibit marked in evidence in any public or private hearing held in connection with an investigation conducted by the commission, and may order such exhibit to be retained by, or delivered to and placed in the custody of, the commission. When so impounded such exhibit shall not be taken from the custody of the commission, except upon further order of the court made upon 5 days' notice to the commission or upon its application or with its consent.

*52:9M-17. Grant of immunity to criminal prosecution or penalty; contempt; incarceration.*

a. If, in the course of any investigation or hearing conducted by the commission pursuant to this act, a person refuses to answer a question or questions or produce evidence of any kind on the ground that he will be exposed to criminal prosecution or penalty or to a forfeiture of his estate thereby, the commission may order the person to answer the question or questions or produce the requested evidence and confer immunity as in this section provided. No order to answer or produce evidence with immunity shall be made except by majority vote and after the Attorney General, the United States Attorney for New Jersey and the appropriate county prosecutor shall have been given at least seven days written notice of the commission's intention to issue such order and afforded an opportunity to be heard in respect to any objections they or either of them may have to the granting of immunity.

b. If upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom used to expose him to criminal prosecution or penalty or to a forfeiture of his estate, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or be prosecuted for willful refusal to give an answer or produce evidence in accordance with an order of the commission pursuant to C.52:9M-17.1, or held in contempt for failing to give an answer or produce evidence in accordance with the order of the commission pursuant to C.52:9M-12; and any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury, or upon any investigation, proceeding or trial against him for such contempt or willful refusal to give an answer or produce evidence in accordance with an order of the commission.

c. If the commission proceeds against any witness for contempt of court for refusal to answer, subsequent to a grant of immunity, said witness may be incarcerated at the discretion of the Superior Court; provided, however, that (1) no incarceration for civil contempt shall exceed a period of five years of actual incarceration exclusive of releases for whatever reason; (2) the commission may seek the release of a witness for good cause on appropriate motion to the Superior Court; and (3) nothing contained herein shall be deemed to limit any of the vested constitutional rights of any witness before the commission.

*52:9M-17.1 Failure to answer questions after order; penalty.*

a. Any person who shall willfully refuse to answer a question or questions or produce evidence after being ordered to do so by the State Commission of Investigation in accordance with the act to which this act is a supplement P.L.1968, c.266 (C. 52:9M-1 et seq.) is guilty of a high misdemeanor until September 1, 1979, when such person shall be guilty of a crime of the second degree. Notwithstanding any other provision of law, no person imprisoned pursuant to this section shall be eligible for parole or reconsideration of sentence except upon a showing that after imposition of the sentence he testified or furnished the required evidence at a time when the commission's needs were substantially met. Action against such person shall ensue upon a complaint signed by the chairman upon resolution of the commission. Such complaint shall be referred for prosecution to the Attorney General.

b. The trial of a defendant for an indictment made pursuant to this act shall be stayed pending the disposition of any review on appeal of the commission's order to testify and the indictment shall be dismissed if the order to testify is set aside on appeal or if, within 30 days after the order to testify is sustained on appeal, the defendant notifies the commission that he will comply with the order and does so promptly upon being afforded an opportunity to do so.

c. Any period of incarceration for contempt of an order of the commission shall be credited against any period of imprisonment to which a defendant is sentenced pursuant to subsection a. of this section.

*52:9M-18. Partial invalidity.* If any section, clause or portion of this act shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

*52:9M-20. Special committee established in June of 2000.* In June of 2000, a special committee shall be established to review the activities of the State Commission of Investigation for the purpose of determining whether the statutory authorization for the commission's operation will be renewed. The special committee shall consist of seven members: three members to be appointed by the Governor, no more than two of whom shall be of the same political party; two members to be appointed by the President of the Senate, no more than one of whom shall be of the same political party and two members to be appointed by the Speaker of the General Assembly, no more than one of whom shall be of the same political party. This committee shall submit its report to the Governor and the Legislature no later than January 1, 2001.