



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 140

PRINTERS NO. 3601

PRIME SPONSOR: Maloney

COST / (SAVINGS)

FUND	FY 2022/23	FY 2023/24
General Fund	\$0	\$0
Motor License Fund	\$0	\$0
Judicial Computer Augmentation Account	See "Fiscal Impact"	See "Fiscal Impact"
Municipal Funds	See "Fiscal Impact"	See "Fiscal Impact"
Southeastern Pennsylvania Transportation Authority	\$0	\$0

SUMMARY: Establishes protected pedestrian plazas and pedalcycle lanes and to assign a special prosecutor for crimes committed on SEPTA property in Philadelphia. This legislation would take effect in 60 days.

ANALYSIS: This legislation amends Title 75 (Vehicle Code) to establish protected pedestrian plazas and pedalcycle lanes, provide for limitations on political subdivisions regarding pedestrian plazas and pedalcycle lanes, and to assign a special prosecutor for crimes committed on SEPTA property in Philadelphia.

Establishment of Plazas and Lanes: This legislation amends section 3354 (Additional parking regulations) by adding a new subsection (b.1), entitled Protected Pedestrian Plazas and Pedalcycle Lanes. Vehicles parking along a curbside bike lane must park parallel with their right-hand or left-hand wheels within 12 inches of the outside line of the buffer area between the bike lane and parking in the direction of traffic flow.

A school bus or school vehicle is permitted to stop within a protected pedalcycle lane or pedestrian plaza.

Prior to the design and construction of a protected pedalcycle lane or pedestrian plaza, a political subdivision shall provide deference to the following:

- Businesses whose front or rear entrance is facing the highway for the purpose of loading and unloading passengers.
- Electric vehicle charging infrastructure.

Section 3354 (d) allows local authorities to adopt alternative parking regulations related to parking adjacent to a protected plaza or pedalcycle lane.

Section 3554 (f) (Penalty) adds protected pedestrian plazas and pedalcycle lanes for violation of the Vehicle Code's requirements for parking adjacent to a curb. The penalty is a summary offense and a \$15 fine

The act may be referred to as "Susan's and Emily's Law".

Limitation on Political Subdivisions: Before a political subdivision may design or construct a protected pedestrian plaza or pedalcycle lane, PennDOT shall certify the political subdivision is compliant with and is enforcing all applicable provisions of the Vehicle Code. A political subdivision that is not compliant may not design or construct a protected pedestrian plaza or pedalcycle lane.

The following shall be considered not compliant with the Vehicle Code:

- An ordinance inconsistent with the Vehicle Code, including designating violations as secondary offenses, shall be considered not compliant with the Vehicle Code.
- A political subdivision that directs a police officer to not enforce provisions of the Vehicle Code.

Violations on SEPTA Property: A special prosecutor selection panel is created to appoint a special prosecutor in Philadelphia to investigate and institute criminal proceedings for a violation of any Commonwealth law on SEPTA property.

The special prosecutor selection panel consist of one judge from the Superior Court and two judges from courts of common pleas. These 3 members will be selected as follows:

- The members shall be chosen by lot.
- The selection procedure shall be supervised by AOPC.
- Once members are selected, the membership of the panel shall be posted on AOPC's website and published in the PA Bulletin.
- Within 30 days of the effective date, the panel shall select a special prosecutor through a majority vote.
- A member of the panel shall not participate in any judicial proceeding concerning a matter involving the special prosecutor.

The special prosecutor shall have the following qualifications:

- Be a member of the bar in good standing for at least 10 years.
- Have at least 5 years of experience with criminal prosecutions in PA.
- Not been employed in the Philadelphia DA's office within the past 6 years.
- Be of good moral character.
- Be a resident of Philadelphia.

The special prosecutor's authority shall include, but not be limited to, the following:

- Conducting proceedings before grand juries and other investigations.
- Participating in court proceedings and engaging in civil and criminal litigation.
- Initiating and conducting prosecutions in any court of competent jurisdiction.
- Appealing any decision of a court.
- Reviewing evidence.
- Making application to a court for witness immunity.

The special prosecutor may utilize resources from the Attorney General's office and the State Police.

The special prosecutor may assert preemptive prosecutorial jurisdiction over criminal matters as follows:

- Preemptive action is at the discretion of the special prosecutor.
- When preemption is asserted, no other prosecuting entity shall have the authority to act.
- Preemptive action may not occur in jurisdictions outside Philadelphia, unless agreed to by the district attorney in the other jurisdiction.
- If preemption is asserted, the Philadelphia DA shall suspend proceedings and provide the special prosecutor all files related to the matter.
- The special prosecutor does not need approval from the Philadelphia DA to institute criminal proceedings.

No person charged with a violation by the special prosecutor shall have standing to challenge the authority of the special prosecutor to prosecute the case. If any challenge is made, the challenge shall be dismissed, and no relief shall be provided by the court to the individual making the challenge.

Every law enforcement agency within Philadelphia is required to report to the special prosecutor any violation of law on SEPTA property.

No proceedings may be initiated by the special prosecutor after 12/31/25.

The special prosecutor shall issue reports regarding criminal activity on SEPTA property to the General Assembly. An initial report shall be issued no later than 90 days from the date the special prosecutor is appointed. After the initial report, annual reports shall be submitted to the General Assembly.

If the General Assembly finds the contents of a report to be unsatisfactory, the General Assembly may pass a concurrent resolution opposing the report and PennDOT shall prohibit the design and construction of a protected pedalcycle lane or pedestrian plaza in Philadelphia until the General Assembly passes a concurrent resolution supporting a subsequent report.

The special prosecutor shall submit expenses to the Attorney General for approval. Once

approved, expenses shall be reimbursed from Philadelphia's General Fund.

The Attorney General's Office shall compensate the special prosecutor at a per diem rate equal to the annual rate of compensation paid to the Philadelphia DA.

During the time the special prosecutor serves, Philadelphia shall not receive reimbursement for the DA's salary under the County Code (65% of salary) and the withheld funds shall be used to reimburse the Attorney General's Office for compensating the special prosecutor.

FISCAL IMPACT: Since this legislation would subject a violator of new section 3354 (b.1) to a \$15 fine, this would allow for additional fine revenue for both municipalities and the Judicial Computer Augmentation Account. Any estimate of that revenue is indeterminable at this point.

The provisions relating to the SEPTA would require the special prosecutor to submit expenses to the Attorney General for approval. Once approved, expenses shall be reimbursed from Philadelphia's General Fund. Any estimate of those expenses is indeterminable at this point.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: October 26, 2022

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.