

15.734 Disqualification of prosecuting attorney due to indictment on a felony charge -- Appointment of special prosecutor for duration of disqualification.

- (1) In the event a Commonwealth's attorney or an assistant Commonwealth's attorney, or a county attorney or an assistant county attorney is indicted by a duly-empaneled state or federal grand jury on any felony charge under the laws of this Commonwealth, or a similar charge in the federal courts, such charge shall result in his immediate disqualification from further acting as a prosecuting attorney during the pendency of the action in any state or federal court. Such charge or charges shall in no way limit his right to practice civil law, unless the right to do so would contravene some other statute or existing canon of legal ethics, nor shall the charge alone prevent said attorney from receiving the usual salary or allowances for expense of the office, which would otherwise be payable.
- (2) In the event such disqualification exists as to an assistant Commonwealth's attorney or an assistant county attorney, the suspension of acting as a prosecuting attorney shall be exercised and enforced by the duly-elected Commonwealth's attorney or county attorney as applicable.
- (3) In the event the disqualification relates to a Commonwealth's attorney or county attorney, upon certification of such disqualification to the Attorney General by the circuit judge or district judge of the jurisdiction in which said prosecuting attorney has been duly elected, the Attorney General shall name an attorney to serve as special prosecutor for the Commonwealth for the duration of the disqualification. The attorney, in this instance, need not be a Commonwealth's attorney or county attorney as provided in KRS 15.730.
- (4) Nothing in this section shall prohibit a duly elected Commonwealth's attorney or county attorney from being a candidate for reelection if said election is to be held during the period of disqualification, so long as said prosecuting attorney has not been found guilty of a felony or entered a plea of guilty to a felony at the initial trial court level. A final conviction or a plea of guilty at the trial court level to a felony shall act as a bar to being a candidate for reelection.

Effective: April 9, 1986

History: Created 1986 Ky. Acts ch. 369, sec. 1, effective April 9, 1986.