

15.715 Intervention in criminal prosecutions by Attorney General -- Prosecution of complaint against local prosecutor -- Performance of duties of local prosecutor until vacancy filled.

- (1) In the event of the incapacity, refusal without sufficient grounds, inability, conflict of interest of the local prosecutor, or his failure to act in a certain case or cases, the council may authorize, by the vote of no less than five (5) of its members, the Attorney General to initiate, intervene, or supersede a local prosecutor for the purpose of prosecuting the criminal business in question of the Commonwealth in that circuit or district after due notice having been given to the local prosecutor.
- (2) When the Attorney General shall proceed under subsection (1) of this section, he shall petition the Circuit Court of that circuit to disqualify the county attorney or Commonwealth's attorney for good cause shown, when the county attorney or Commonwealth's attorney refuses to disqualify himself. The action of the Circuit Court shall be subject to review according to the Rules of the Supreme Court.
- (3) If the Attorney General's petition to disqualify the local prosecutor was sustained by the Circuit Court, the Attorney General shall file and prosecute a complaint against the local prosecutor pursuant to KRS 61.120.
- (4) If the office of Commonwealth's attorney or the office of county attorney becomes vacant, the Attorney General or his designee shall perform the duties of that office until such time as the successor of that Commonwealth's attorney or of that county attorney shall be appointed or elected as elsewhere provided by law or until the Commonwealth's attorney or county attorney resumes the duties of his office as provided by law.
- (5) When the Attorney General has been authorized to participate in a given case pursuant to subsections (1), (2), (3), and (4) of this section, he may, at his own discretion, direct a Commonwealth's attorney or county attorney from another circuit or district to serve as the special prosecutor, who shall be reimbursed for all of his actual expenses.
- (6) The Attorney General shall have the duty, within the Forty-eighth Judicial Circuit, to prosecute any person who receives compensation from the Treasury of the Commonwealth of Kentucky for all violations of the criminal and penal laws arising out of, involving or in connection with state funds, or the sale or transfer of goods or services by or to the Commonwealth or any of its political subdivisions; and specifically including, but not limited to, all violations set forth in KRS Chapters 521 and 522. Nothing herein shall be construed to change the venue provision presently existing under Kentucky law as of July 15, 1980.
- (7) Whenever the Attorney General shall undertake any of the actions prescribed in this section, he shall be authorized to exercise all powers and perform all duties in respect to such criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

Effective: April 10, 1990

History: Amended 1990 Ky. Acts ch. 419, sec. 1, effective April 10, 1990. -- Amended 1980 Ky. Acts ch. 42, sec. 1, effective July 15, 1980. -- Created 1976 (1st Extra. Sess.) Ky. Acts ch. 17, sec. 4, effective January 1, 1978.