

**17-16-10.5 Failure to perform duties constitutes malfeasance in office -- Felony charges arising from official duties -- Paid administrative leave -- Reassignment of duties.**

- (1) The failure of an elected county or prosecution district officer substantially to perform the officer's official duties constitutes malfeasance in office under Section 77-6-1.
- (2)
  - (a) If an elected county or prosecution district officer is charged with the commission of a felony arising from conduct related to the officer's official duties, the officer shall be placed on paid administrative leave by the county legislative body until:
    - (i) the charges are dismissed or the officer is acquitted, at which time the officer shall be entitled to return to office, unless the officer's term of office has in the meantime expired; or
    - (ii) the officer is convicted of a felony or attempt to commit a felony arising from conduct related to the officer's official duties, in which case the sentencing judge shall order the officer removed from office.
  - (b) A conviction or a plea of guilty or nolo contendere, relating to a felony charge described in Subsection (2)(a), constitutes malfeasance in office for purposes of Section 77-6-1.
  - (c) Entry of a plea in abeyance is the equivalent of a conviction for purposes of Subsection (2)(a)(ii), even if the charge is later dismissed pursuant to a plea in abeyance agreement.
  - (d) The provisions under this Subsection (2) for the removal of a county or prosecution district officer are in addition to and do not replace or supersede the removal provisions under Title 77, Chapter 6, Removal by Judicial Proceedings.
- (3)
  - (a) During the time that an elected county or prosecution district officer is on paid administrative leave under Subsection (2), the officer's duties may, except as provided in Subsection (3)(c), be temporarily:
    - (i) reassigned to another officer by the county legislative body; or
    - (ii) performed by a person employed for that purpose.
  - (b) For purposes of Subsection (3)(a) with respect to a prosecution district officer in a multi-county prosecution district, "county legislative body" means the legislative bodies of all counties included in the prosecution district.
  - (c) A reassignment under Subsection (3)(a) may not result in the same person exercising the duties of:
    - (i) both a county legislative body member or county treasurer and county auditor; or
    - (ii) both a county executive and county auditor.

Amended by Chapter 321, 2006 General Session