

COUNTY OFFICERS AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Craig W. Buttars

AN ACT RELATING TO COUNTIES; REPEALING LANGUAGE RELATING TO THE EFFECT OF AN OFFICER'S ABSENCE FROM THE COUNTY, DISTRICT, PRECINCT, OR PROSECUTION DISTRICT; ESTABLISHING CERTAIN BEHAVIOR AS MALFEASANCE IN OFFICE; REQUIRING COUNTY OR PROSECUTION DISTRICT OFFICERS TO TAKE PAID ADMINISTRATIVE LEAVE UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING THE TEMPORARY REASSIGNMENT OF THE DUTIES OF AN OFFICER ON ADMINISTRATIVE LEAVE; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17-16-1, as last amended by Chapter 139, Laws of Utah 1997

ENACTS:

17-16-10.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17-16-1** is amended to read:

17-16-1. Eligibility and residency requirements for county, district, precinct, or prosecution district office.

(1) A person filing a declaration of candidacy for a county, district, precinct, or prosecution district office shall:

(a) be a United States citizen;

(b) except as provided in Subsection 17-18-5(1)(d)(ii) with respect to the office of county attorney or district attorney, as of the date of the election have been a resident of the county, district, precinct, or prosecution district in which the person seeks office for at least one year; and

(c) be a registered voter in the county, district, precinct, or prosecution district in which the person seeks office.

(2) (a) A county, district, precinct, or prosecution district officer shall maintain residency

within the county, district, precinct, or prosecution district in which he was elected during his term of office.

(b) If a county, district, precinct, or prosecution district officer establishes his principal place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or prosecution district in which he was elected, the office is automatically vacant.

~~[(3) If an elected county, district, precinct, or prosecution district officer is absent from the county, district, precinct, or prosecution district any time during his term of office for a continuous period of more than 60 days without the consent of the county legislative body or bodies, the county, district, precinct, or prosecution district office is automatically vacant.]~~

Section 2. Section **17-16-10.5** is enacted to read:

17-16-10.5. Malfeasance in office -- Felony charges or incapacitation -- 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) 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 a court of competent jurisdiction disposes of the charges.

(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, under the supervision of the county legislative body.

(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.