

Chapter 6

Removal by Judicial Proceedings

77-6-1 Officers subject to removal.

All officers of any city, county, or other political subdivision of this state not liable to impeachment shall be subject to removal as provided in this chapter for high crimes and misdemeanors or malfeasance in office.

Amended by Chapter 471, 2015 General Session

77-6-2 Commencement of action for removal.

An action for the removal of a justice court judge or officer of a city, county, or other political subdivision of this state shall be commenced by presenting a sworn, written accusation to the district court. The accusation may be initiated by any taxpayer, grand jury, county attorney, or district attorney for the county in which the officer was elected or appointed, or by the attorney general.

Amended by Chapter 38, 1993 General Session

77-6-3 Form of accusation.

The accusation shall state the grounds for removal in ordinary and concise language.

Enacted by Chapter 15, 1980 General Session

77-6-4 Presentation of accusation -- Service on defendant.

- (1) When the accusation is initiated by:
 - (a) a grand jury, the foreperson shall present the accusation to the court in the presence of the grand jurors which shall be filed with the clerk; or
 - (b) a taxpayer, the county attorney, district attorney, or the attorney general, any of these persons shall present the accusation to the presiding judge of the district court for filing with the clerk.
- (2)
 - (a) Except when the accusation is initiated by the county attorney or district attorney, the court shall furnish a copy of the accusation to the county attorney or, if within a prosecution district, the district attorney who shall investigate and may prosecute the accusation.
 - (b) If the accusation is against the county or district attorney, the court shall furnish a copy of the accusation to the Office of the Attorney General, who shall investigate and may prosecute the accusation.
 - (c) If prosecution is pursued, the county attorney, district attorney, or attorney general shall serve a copy of the accusation on the defendant with a summons which requires the defendant to appear before the district court of the county in which the county attorney or district attorney serves and to answer the accusation.
- (3) The time fixed for appearance may not be less than 10 days from the date of service of summons. The service of the accusation, summons, and the return of service shall be made in the manner provided by law for service of civil process.

Amended by Chapter 67, 1996 General Session

77-6-5 Appearance -- Procedure on default.

The defendant shall appear at the time appointed and answer the accusation, unless for some sufficient cause the court assigns another time for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence.

Enacted by Chapter 15, 1980 General Session

77-6-6 Answer -- Objections for insufficiency.

The defendant may orally answer the accusation either by admitting or denying it in open court, or he may, in writing, object to the legal sufficiency of the accusation. If the objection to the sufficiency of the accusation is sustained, the accusation shall be dismissed. If the objection is overruled, the defendant shall immediately admit or deny the accusation.

Enacted by Chapter 15, 1980 General Session

77-6-7 Trial on denial or refusal to answer -- Procedure.

If the defendant denies the accusation or refuses to answer or appear, the court shall proceed to try the accusation. The rights of the parties and procedures used shall be the same as in any civil proceeding.

Enacted by Chapter 15, 1980 General Session

77-6-8 Judgment of removal -- Service on defendant.

If the defendant admits the accusation or is convicted, the court shall enter judgment against him directing the defendant be removed from office and setting forth the causes of removal. The judgment of removal shall immediately be served upon the defendant.

Enacted by Chapter 15, 1980 General Session

77-6-9 Appeal -- Suspension from office.

From a judgment of removal an appeal may be taken to the Supreme Court in the same manner as from a judgment in a civil action; but from entry of judgment and until the judgment is reversed, the defendant shall be suspended from his office. Pending the appeal, the office shall be filled as in the case of a vacancy.

Enacted by Chapter 15, 1980 General Session