

Representative Scott L Wyatt proposes the following substitute bill:

REMOVAL OF COUNTY OR PROSECUTION

DISTRICT OFFICER AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott L Wyatt

Senate Sponsor: Darin G. Peterson

LONG TITLE

General Description:

This bill modifies provisions relating to county or prosecution district officers.

Highlighted Provisions:

This bill:

▶ provides that a county or prosecution district officer charged with a felony arising from official conduct is entitled to return to office if the charges are dismissed or the officer is acquitted but shall be removed from office if the officer is convicted of a felony or attempt to commit a felony arising from conduct related to the officer's official duties;

▶ provides that a conviction or plea of guilty or nolo contendere to a felony charge arising from official conduct constitutes malfeasance in office;

▶ provides that the removal process resulting from a conviction does not replace another statutory removal process; and

▶ eliminates a provision calling for county legislative body supervision of a person employed to discharge temporarily the duties of an officer on administrative leave.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17-16-10.5**, as enacted by Chapter 206, Laws of Utah 1999



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

32 Section 1. Section **17-16-10.5** is amended to read:

33 **17-16-10.5. Malfeasance in office -- Felony charges or incapacitation -- Paid**
34 **administrative leave -- Reassignment of duties.**

35 (1) The failure of an elected county or prosecution district officer substantially to
36 perform the officer's official duties constitutes malfeasance in office under Section 77-6-1.

37 (2) (a) If an elected county or prosecution district officer is charged with the
38 commission of a felony arising from conduct related to the officer's official duties, the officer
39 shall be placed on paid administrative leave by the county legislative body until [~~a court of~~
40 ~~competent jurisdiction disposes of the charges.~~];

41 (i) the charges are dismissed or the officer is acquitted, at which time the officer shall
42 be entitled to return to office, unless the officer's term of office has in the meantime expired; or

43 (ii) the officer is convicted of a felony or attempt to commit a felony arising from
44 conduct related to the officer's official duties, in which case the sentencing judge shall order the
45 officer removed from office.

46 (b) A conviction or a plea of guilty or nolo contendere, relating to a felony charge
47 described in Subsection (2)(a), constitutes malfeasance in office for purposes of Section
48 77-6-1.

49 (c) Entry of a plea in abeyance is a conviction for purposes of Subsection (2)(a)(ii),
50 even if the charge is later dismissed pursuant to a plea in abeyance agreement.

51 (d) The provisions under this Subsection (2) for the removal of a county or prosecution
52 district officer are in addition to and do not replace or supersede the removal provisions under
53 Title 77, Chapter 6, Removal by Judicial Proceedings.

54 (3) (a) During the time that an elected county or prosecution district officer is on paid
55 administrative leave under Subsection (2), the officer's duties may, except as provided in
56

57 Subsection (3)(c), be temporarily:

58 (i) reassigned to another officer by the county legislative body; or

59 (ii) performed by a person employed for that purpose[~~, under the supervision of the~~
60 ~~county legislative body~~].

61 (b) For purposes of Subsection (3)(a) with respect to a prosecution district officer in a
62 multi-county prosecution district, "county legislative body" means the legislative bodies of all
63 counties included in the prosecution district.

64 (c) A reassignment under Subsection (3)(a) may not result in the same person
65 exercising the duties of:

66 (i) both a county legislative body member or county treasurer and county auditor; or

67 (ii) both a county executive and county auditor.