

**COUNTY ATTORNEY AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gene Davis**

House Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill modifies provisions relating to county attorney duties.

**Highlighted Provisions:**

This bill:

- modifies the duties of a county attorney by:

- eliminating the duty to report annually to the attorney general on criminal prosecutions; and

- adding a duty to assist the attorney general to collect criminal justice data through participating and assisting in the development of an integrated criminal justice information system.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**17-18-1**, as last amended by Chapter 130, Laws of Utah 2002

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

Section 1. Section **17-18-1** is amended to read:



**17-18-1. Powers -- Duties of county attorney -- Prohibitions.**

(1) (a) In each county which is not within a prosecution district, the county attorney is a public prosecutor and shall:

(i) conduct on behalf of the state all prosecutions for public offenses committed within the county, except for prosecutions undertaken by the city attorney under Section 10-3-928 and appeals from them;

(ii) institute proceedings before the proper magistrate for the arrest of persons charged with or reasonably suspected of any public offense when in possession of information that the offense has been committed, and for that purpose shall attend court in person or by deputy in cases of arrests when required; and

(iii) when it does not conflict with other official duties, attend to all legal business required in the county by the attorney general without charge when the interests of the state are involved.

(b) All the duties and powers of public prosecutor shall be assumed and discharged by the county attorney.

(2) The county attorney:

(a) shall appear and prosecute for the state in the district court of the county in all criminal prosecutions;

(b) may appear and prosecute in all civil cases in which the state may be interested; and

(c) shall render assistance and cooperation as required by the attorney general in:

(i) all cases that may be appealed to the Supreme Court and shall prosecute the appeal from any crime charged by the county attorney as a misdemeanor in the district court; and

(ii) investigations involving the Office of the Attorney General, including those described in Subsection 67-5-18(3)(f).

(3) The county attorney shall:

(a) attend the deliberations of the grand jury;

(b) draw all indictments and informations for offenses against the laws of this state within the county;

(c) cause all persons indicted or informed against to be speedily arraigned;

(d) cause all witnesses for the state to be subpoenaed to appear before the court or grand jury;

(e) examine carefully into the sufficiency of all appearance bonds that may be tendered to the district court of the county;

(f) upon the order of the court, institute proceedings in the name of the state for recovery upon the forfeiture of any appearance or other bonds running to the state and enforce the collection of them; and

(g) perform other duties as required by law.

(4) The county attorney shall:

(a) ascertain by all practicable means what estate or property within the county has escheated or reverted to the state;

(b) require the assessor of taxes of the county to furnish annually a list of all real or personal property that may have so escheated or reverted; and

(c) file a copy of the list in the office of the state auditor and of the attorney general.

(5) The county attorney shall:

(a) ~~[each year on the first business day of August file a report with the attorney general covering the preceding fiscal year, stating the number of criminal prosecutions in the district, the character of the offenses charged, the number of convictions, the amount of fines and penalties imposed, and the amount collected]~~ assist the attorney general to collect criminal justice data by participating and assisting in the development of an integrated criminal justice information system; and

(b) call attention to any defect in the operation of the laws and suggest amendments to correct the defect.

(6) The county attorney shall:

(a) appear and prosecute for the state in the juvenile court of the county in any proceeding involving delinquency;

(b) represent the state in any proceeding pending before the juvenile court if any rights to the custody of any juvenile are asserted by any third person; and

(c) prosecute before the court any person charged with abuse, neglect, or contributing to the delinquency or dependency of a juvenile.

(7) The county attorney shall:

(a) defend all actions brought against the county;

(b) prosecute all actions for the recovery of debts, fines, penalties, and forfeitures

90 accruing to the county;

91 (c) give, when required and without fee, an opinion in writing to county, district, and  
92 precinct officers on matters relating to the duties of their respective offices;

93 (d) deliver receipts for money or property received in an official capacity and file  
94 duplicates with the county treasurer; and

95 (e) on the first Monday of each month file with the auditor an account verified by oath  
96 of all money received in an official capacity during the preceding month, and at the same time  
97 pay it over to the county treasurer.

98 (8) A county attorney may not:

99 (a) in any manner consult, advise, counsel, or defend within this state any person  
100 charged with any crime, misdemeanor, or breach of any penal statute or ordinance;

101 (b) be qualified to prosecute or dismiss in the name of the state any case in which the  
102 county attorney has previously acted as counsel for the accused on the pending charge; or

103 (c) in any case compromise any cause or enter a nolle prosequi after the filing of an  
104 indictment or information without the consent of the court.

105 (9) If at any time after investigation by the district judge involved, the judge finds and  
106 recommends that the county attorney in any county is unable to satisfactorily and adequately  
107 perform the duties in prosecuting a criminal case without additional legal assistance, the  
108 attorney general shall provide the additional assistance.

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**Legislative Review Note**  
**as of 2-15-07 11:30 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 256 - County Attorney Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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