

1 AN ACT relating to the recall of elected officials.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 63 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act:*

6 *(1) "Elected official" means any sheriff, jailer, constable, or other peace officer*
7 *elected in each county under Section 99 of the Constitution of Kentucky;*

8 *(2) (a) "Neglect of duty" means:*

- 9 *1. The commission of a trespass or wrongful act in the performance of*
10 *an official duty;*
- 11 *2. Acceptance of a bribe of money or other valuable consideration to*
12 *induce failure to perform duties prescribed by law;*
- 13 *3. Willful or careless failure to exercise due diligence in the performance*
14 *of an official duty, or intentional failure to perform a duty imposed by*
15 *statute or the Constitution of Kentucky;*
- 16 *4. Commission of an act or acts of misfeasance or malfeasance while in*
17 *office;*
- 18 *5. Violation of the oath of office;*
- 19 *6. Willful misuse, conversion, or misappropriation, without authority, of*
20 *public property or public funds entrusted to or associated with the*
21 *office;*
- 22 *7. Habitual impairment in office due to ingestion or other use of alcohol*
23 *or a controlled substance as defined in KRS 218A.010;*
- 24 *8. Conviction of forgery, perjury, or any felony while in office;*
- 25 *9. Conviction of two (2) Class A misdemeanors within an eight (8) year*
26 *period while in office;*
- 27 *10. Conduct in a manner which relates to and adversely affects the*

1 administration of the office and adversely affects the rights and
2 interests of the public;

3 11. Physical or mental lack of fitness; or

4 12. Incompetence.

5 (b) "Neglect of duty" shall not include the discretionary performance of a
6 lawful act or a prescribed duty.

7 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 63 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) In addition to other methods for removal as provided in the Constitution of
10 Kentucky and as permitted by law, every elected official shall be subject to recall
11 from office for neglect of duty.

12 (2) Any twenty-five (25) voters who reside in the county from which the official
13 sought to be recalled was elected may commence recall proceedings by filing an
14 intent to circulate a petition for a recall election with the county clerk of the
15 county from which the elected official was elected. The intent to circulate a recall
16 petition shall include:

17 (a) The statement "We, the undersigned registered voters of (name of county)
18 county, declare our intent to circulate a petition for a recall election of
19 (name and office of elected official to be recalled) for neglect of duty as
20 defined in Section 1 of this Act.";

21 (b) A copy of the unsigned recall petition to be circulated;

22 (c) The signature and legibly printed name of each voter who has signed the
23 intent to circulate a recall petition, the voter's residence address, date of
24 birth, and the date signed;

25 (d) A designation by name and address of five (5) of the voters who have signed
26 the intent to circulate the recall petition who shall:

27 1. Constitute the members of the petition committee;

- 1 2. Be responsible for circulating the recall petition; and
- 2 3. File the recall petition, in its proper form, as required by subsections
- 3 (6) to (9) of this section, with the county clerk; and
- 4 (e) The address to which all notices to the petition committee are to be sent.
- 5 (3) No recall petition included in the intent to circulate a petition for a recall election
- 6 shall be amended or supplemented after the intent to circulate a recall petition
- 7 has been filed as provided in this section.
- 8 (4) Upon filing, the county clerk shall immediately deliver a copy of the intent to
- 9 circulate a petition for a recall election to the elected official named in the
- 10 petition.
- 11 (5) No signatures shall be affixed to a petition for a recall election prior to the filing
- 12 and acceptance by the county clerk of an intent to circulate a petition for a recall
- 13 petition.
- 14 (6) A petition for a recall election:
- 15 (a) Shall be signed by voters who are registered in and reside in the county
- 16 from which the elected official was elected;
- 17 (b) May consist of one (1) or more separate signature sheets. Each signature
- 18 sheet shall include:
- 19 1. The statement "We, the undersigned registered voters of (name of
- 20 county) county, petition for a recall election of (name and office of
- 21 elected official to be recalled) for neglect of duty as defined in Section
- 22 1 of this Act. The question on the ballot shall read: 'Are you in favor
- 23 of recalling (name and office of elected official to be recalled) which
- 24 shall result in removal of (name of elected official) from office?";
- 25 2. The statement "Any person who gives or receives money or any other
- 26 thing of value for signing a recall petition shall be guilty of a Class A
- 27 misdemeanor.";

- 1 3. The signature, executed in ink or indelible pencil, followed by the
2 legibly printed name of each voter;
- 3 4. The voter's residential address;
- 4 5. The voter's date of birth; and
- 5 6. The date the voter signed the petition.
- 6 (7) If a voter is incapable of signing his or her own name on the recall petition, the
7 voter may specifically request the circulator of the petition to sign and print the
8 voter's name and complete the information required on the petition sheet to
9 accompany the signature, provided the circulator shall also sign his or her full
10 name beside the printed name of the voter.
- 11 (8) All papers of the recall petition shall be substantially uniform in size and style
12 and shall be assembled in one (1) instrument for filing.
- 13 (9) The number of voters necessary to petition the recall of the office by election shall
14 be equal to:
- 15 (a) Forty percent (40%) of the total votes cast in the last election for the office
16 being recalled if less than ten thousand (10,000) total votes were cast for
17 that office; or
- 18 (b) Thirty percent (30%) of the total votes cast in the last election for the office
19 being recalled if ten thousand (10,000) or more votes were cast for that
20 office.
- 21 (10) After a petition for a recall election has received no fewer than the number of
22 qualifying signatures required by subsection (9) of this section, the signed
23 petition shall be filed with the county clerk of the county from which the elected
24 official was elected on or before the earlier of:
- 25 (a) One hundred eighty (180) days after the filing of the intent to circulate a
26 petition for a recall election; or
- 27 (b) The second Tuesday in August preceding the day fixed by law for holding a

1 regular election.

2 (11) The recall petition shall be filed no later than 4 p.m. local time at the place of
3 filing when filed on the last date on which the petition is permitted to be filed.

4 (12) No signer of the petition may withdraw his or her name or have it removed from
5 the petition after the petition has been filed as required by subsection (10) of this
6 section unless his or her name has been placed on the recall petition without that
7 person's authority. If a name has been placed on the recall petition without
8 authority, that person may appear before the county board of elections at any
9 time before the county clerk determines whether the petition is regular on its face
10 and contains enough signatures of voters to place on the ballot as provided in
11 subsections (14) and (15) of this section. Upon proof that the person's name was
12 placed on the petition without his or her authority as determined by a majority
13 vote of the county board of elections, the person's name and personal
14 information required in subsection (6) of this section shall be removed. When the
15 person's name and personal information has been removed, he or she shall not
16 be counted as a petitioner.

17 (13) The inclusion of any invalid signature on a page shall not invalidate the entire
18 page of the petition.

19 (14) After the petition for a recall election has been filed with the county clerk, the
20 clerk shall:

21 (a) Immediately notify the elected official named in the petition that a petition
22 for a recall election has been received; and

23 (b) Make a determination, within thirty (30) days, of whether the petition is
24 regular on its face and contains enough voters' signatures to place the
25 recall petition before the voters.

26 (15) (a) If the county clerk finds the recall petition contains enough signatures and
27 is regular on its face, the clerk shall:

- 1 1. Certify to the petition committee and the elected official named in the
2 petition for a recall election that the petition is properly presented and
3 in compliance with the requirements of this section, and that the recall
4 question shall be placed before the voters for approval or rejection;
5 and
6 2. Place the question stated in the petition on the ballot for the next
7 regular election to be held in that county so that the voter may by his
8 or her vote answer "yes" or "no"; or
9 (b) If the county clerk finds that the recall petition is insufficient, the clerk
10 shall, within the thirty (30) day period provided in subsection (14) of this
11 section, notify the petition committee, in writing, sent by certified mail, of
12 the specific deficiencies found.
13 (16) The county clerk's determination of the sufficiency of a petition for a recall
14 petition shall be subject to final review by the Circuit Court of the county from
15 which the elected official was elected. The review shall be limited to the validity of
16 the county clerk's determination. Any petition for review challenging the county
17 clerk's determination shall be filed within ten (10) days of the issuance of the
18 clerk's determination.
19 (17) Any recall election under this section shall be held at the next regular election to
20 be held in the county from which the official sought to be recalled was elected.
21 (18) The result of the election shall be certified by the county board of elections. The
22 certificate of the result shall be immediately filed with the county clerk, and the
23 county judge/executive shall have the certificate entered on the order book. Upon
24 final certification of the result of the election, the office of the recalled elected
25 official shall be declared "vacant" with the vacancy to be filled as prescribed by
26 KRS 63.220 and Section 152 of the Constitution of Kentucky. The recalled elected
27 official shall not be appointed to fill the vacancy.

1 *(19) The right of any voter or the elected official named in the recall petition to contest*
 2 *or recount an election under KRS Chapter 120 shall not be impaired.*

3 *(20) The forms required under subsections (2) and (6) of this section shall be provided*
 4 *by the State Board of Elections by administrative regulation promulgated under*
 5 *KRS Chapter 13A.*

6 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 63 IS CREATED TO
 7 READ AS FOLLOWS:

8 *(1) No intent to circulate a petition for a recall election as prescribed by Section 2 of*
 9 *this Act shall:*

10 *(a) Be filed during the first one hundred eighty (180) days or during the last*
 11 *one hundred eighty (180) days of the term of office of the elected official*
 12 *named in the petition; or*

13 *(b) Demand the recall of more than one (1) elected official.*

14 *(2) If the elected official named in the petition for a recall election retires, dies, or*
 15 *submits a resignation in writing, a vacancy shall be declared and no recall*
 16 *election shall be held. The vacancy shall be filled as prescribed by KRS 63.220*
 17 *and Section 152 of the Constitution of Kentucky. The elected official named in*
 18 *the recall petition shall not be appointed to fill the vacancy.*

19 *(3) After a recall petition and election, no further recall petition shall be filed against*
 20 *the same elected official for recall from the same office until at least one (1) year*
 21 *has elapsed from the date of the previous recall election.*

22 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 63 IS CREATED TO
 23 READ AS FOLLOWS:

24 *(1) (a) The canvass and returns in subsection (18) of Section 2 of this Act shall*
 25 *constitute the official returns for the recall election, unless before 4 p.m. on*
 26 *the Tuesday following the regular election the county clerk or the county*
 27 *board of elections takes notice of a discrepancy in the tally of votes cast in*

1 any precinct or number of precincts, or the elected official named in the
2 petition under Section 2 of this Act makes a written request to the county
3 board of elections to check and recanvass the voting machines and absentee
4 ballots of any precinct or any number of precincts involving the recall
5 petition. Any recanvass shall proceed as under KRS 117.305.

6 **(b) At any recanvass, the committee favoring the recall and the elected official**
7 **named in the recall petition may be present. As provided in KRS 117.305,**
8 **the county board of elections shall authorize representatives of the news**
9 **media to observe the recanvass of the votes cast on the voting machine in**
10 **each precinct. Nothing in this section shall prohibit an individual from**
11 **requesting, in addition to a recanvass, a recount as authorized by KRS**
12 **Chapter 120.**

13 ➔Section 5. KRS 63.990 is amended to read as follows:

14 **(1)** Any peace officer removed from office under the provisions of KRS 63.090 to
15 63.160 and not reinstated shall be disqualified from holding any office in this state
16 for a period of four (4) years.

17 **(2) Any person who gives or receives money or any other thing of value for signing a**
18 **recall petition under Section 2 of this Act shall be guilty of a Class A**
19 **misdemeanor.**