

1 AN ACT relating to the public advocate.

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

3 ➔Section 1. KRS 31.020 is amended to read as follows:

- 4 (1) The Department of Public Advocacy shall consist of the public advocate, deputy
5 public advocate, general counsel, such assistant public advocates as the public
6 advocate shall deem necessary, and such secretarial and other personnel as the
7 public advocate shall deem necessary.
- 8 (2) **(a)** The public advocate shall:
- 9 **1.** Be appointed by the ~~{Governor from a list of three (3) attorneys~~
10 ~~submitted to him or her by the }~~Public Advocacy Commission;
- 11 **2.** ~~{shall }~~Be an attorney licensed to practice law in Kentucky with at least
12 **eight (8)**~~{five (5)}~~ years experience in the practice of law **and**~~{;}~~ shall be
13 excepted from the classified service;
- 14 **3.** ~~{shall }~~Be the chief administrator of the Department of Public Advocacy
15 and an appointing authority as that term is defined in KRS 18A.005; and
- 16 **4.** ~~{shall }~~Serve a term of four (4) years, which is renewable, **for two (2)**
17 **additional terms**, unless removed by the **Public Advocacy Commission**
18 ~~{Governor}~~**for good cause**.
- 19 **(b)** The incumbent public advocate shall serve until a successor is **appointed by**
20 **the Public Advocacy Commission**~~{nominated by the commission and~~
21 ~~approved by the Governor}~~.
- 22 **(c)** The compensation of the public advocate shall be set by the provisions of
23 KRS 64.640.
- 24 (3) The deputy public advocate shall be an attorney and shall be appointed by the
25 public advocate and shall serve at his or her pleasure.
- 26 (4) The general counsel shall be an attorney and shall be appointed by the public
27 advocate and shall serve at his or her pleasure. The general counsel shall represent

1 the interests of the department as directed by the public advocate.

2 (5) The assistant public advocates shall be attorneys, shall be appointed by the public
3 advocate, shall be covered by the merit system, and shall not be subject to the
4 provisions of KRS 12.210.

5 (6) Secretarial, clerical, and other personnel shall be appointed by the public advocate
6 and shall be covered by the merit system.

7 ➔Section 2. KRS 31.015 is amended to read as follows:

8 (1) (a) The Public Advocacy Commission shall consist of the following members,
9 none of whom shall be a prosecutor, law enforcement official, or judge, who
10 shall serve terms of four (4) years, except the initial terms shall be established
11 as hereafter provided:

12 1. Two (2) members appointed by the Governor, *one (1) of whom shall be*
13 *a resident of the judicial circuit containing the largest number of*
14 *Circuit Judges;*

15 2. One (1) member appointed by the Governor. This member shall be a
16 child advocate or a person with substantial experience in the
17 representation of children;

18 3. Two (2) members appointed by the Kentucky Supreme Court;

19 4. Three (3) members, who are licensed to practice law in Kentucky and
20 have substantial experience in the representation of persons accused of
21 crime, *at least one (1) of whom practices law in the judicial circuit*
22 *containing the largest number of Circuit Judges,* appointed by the

23 Governor from a list of three (3) persons submitted to him or her for
24 each individual vacancy by the board of governors of the Kentucky Bar
25 Association;

26 5. The dean, ex officio, of each of the law schools in Kentucky or his or
27 her designee; and

- 1 6. One (1) member appointed by the Governor from a list of three (3)
2 persons submitted to him or her by the joint advisory boards of the
3 Protection and Advocacy Division of the Department of Public
4 Advocacy.
- 5 (b) Any member of the commission serving prior to July 15, 2002, shall serve
6 until the expiration of his or her current term of office. Subsequent
7 appointments shall be for a term of four (4) years from the date of expiration
8 of the term for which his or her predecessor was appointed.
- 9 (2) At the first meeting of the commission, a drawing by lot shall be conducted to
10 determine the length of each original member's term. Initially there shall be four (4)
11 two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms.
12 Vacancies in the membership of the commission shall be filled in the same manner
13 as original appointments. Appointments to fill vacancies occurring before the
14 expiration of a term shall be for the remainder of the unexpired term.
- 15 (3) The commission shall first meet at the call of the Governor and thereafter as the
16 commission shall determine on a regular basis, but at least quarterly, and shall be
17 presided over by a chairperson elected by its members for a one (1) year term. A
18 majority of commission members shall constitute a quorum, and decisions shall
19 require the majority vote of those present; except that ~~for a recommendation to the~~
20 ~~Governor pertaining to~~ the appointment, renewal of the appointment, or removal of
21 the public advocate shall require a majority vote of the commission. Each member
22 of the commission shall have one (1) vote, and voting by proxy shall be prohibited.
- 23 (4) The public advocate shall, upon appointment or renewal, be an ex officio member
24 of the commission without the power to vote, shall serve as secretary of the
25 commission, and shall be entitled to attend and participate in all meetings of the
26 commission except discussions relating to renewal of his or her term or his or her
27 removal.

- 1 (5) Commission members shall be reimbursed for reasonable and necessary expenses
2 incurred while engaged in carrying out the duties of the commission and shall
3 receive one hundred dollars (\$100) per day for each meeting attended unless
4 prohibited by law from receiving such compensation.
- 5 (6) The commission shall:
- 6 (a) Receive applications, interview, and appoint~~recommend to the Governor~~
7 ~~three (3) attorneys as nominees for appointment as~~ the public advocate.
8 *Appointment of the public advocate shall require a majority vote of the*
9 *commission;*
- 10 (b) Assist the public advocate in drawing up procedures for the selection of his or
11 her staff;
- 12 (c) Review the performance of the public advocacy system and provide general
13 supervision of the public advocate;
- 14 (d) Assist the Department of Public Advocacy in ensuring its independence
15 through public education regarding the purposes of the public advocacy
16 system; and
- 17 (e) Review and adopt an annual budget prepared by the public advocate for the
18 system and provide support for budgetary requests to the General Assembly.
- 19 (7) In no event shall the commission or its members interfere with the discretion,
20 judgment, or advocacy of employees of the Department of Public Advocacy in their
21 handling of individual cases.