

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) The public advocate shall be appointed by the ~~{Governor from a list of three (3)~~
9 ~~attorneys submitted to him or her by the }~~Public Advocacy Commission; shall be an
10 attorney licensed to practice law in Kentucky with at least five (5) years experience
11 in the practice of law; shall be excepted from the classified service; shall be the
12 chief administrator of the Department of Public Advocacy and an appointing
13 authority as that term is defined in KRS 18A.005; and shall serve a term of four (4)
14 years, which is renewable, unless removed by the **Public Advocacy**
15 **Commission**~~{Governor}~~. The incumbent public advocate shall serve until a
16 successor is **appointed by the Public Advocacy Commission**~~{nominated by the~~
17 ~~commission and approved by the Governor}~~. The compensation of the public
18 advocate shall be set by the provisions of KRS 64.640.
- 19 (3) The deputy public advocate shall be an attorney and shall be appointed by the public
20 advocate and shall serve at his or her pleasure.
- 21 (4) The general counsel shall be an attorney and shall be appointed by the public
22 advocate and shall serve at his or her pleasure. The general counsel shall represent
23 the interests of the department as directed by the public advocate.
- 24 (5) The assistant public advocates shall be attorneys, shall be appointed by the public
25 advocate, shall be covered by the merit system, and shall not be subject to the
26 provisions of KRS 12.210.
- 27 (6) Secretarial, clerical, and other personnel shall be appointed by the public advocate

1 and shall be covered by the merit system.

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

- 3 (1) (a) The Public Advocacy Commission shall consist of the following members,
4 none of whom shall be a prosecutor, law enforcement official, or judge, who
5 shall serve terms of four (4) years, except the initial terms shall be established
6 as hereafter provided:
- 7 1. Two (2) members appointed by the Governor;
 - 8 2. One (1) member appointed by the Governor. This member shall be a
9 child advocate or a person with substantial experience in the
10 representation of children;
 - 11 3. Two (2) members appointed by the Kentucky Supreme Court;
 - 12 4. Three (3) members, who are licensed to practice law in Kentucky and
13 have substantial experience in the representation of persons accused of
14 crime, appointed by the Governor from a list of three (3) persons
15 submitted to him or her for each individual vacancy by the board of
16 governors of the Kentucky Bar Association;
 - 17 5. The dean, ex officio, of each of the law schools in Kentucky or his or her
18 designee; and
 - 19 6. One (1) member appointed by the Governor from a list of three (3)
20 persons submitted to him or her by the joint advisory boards of the
21 Protection and Advocacy Division of the Department of Public
22 Advocacy.
- 23 (b) Any member of the commission serving prior to July 15, 2002, shall serve
24 until the expiration of his or her current term of office. Subsequent
25 appointments shall be for a term of four (4) years from the date of expiration
26 of the term for which his or her predecessor was appointed.
- 27 (2) At the first meeting of the commission, a drawing by lot shall be conducted to

1 determine the length of each original member's term. Initially there shall be four (4)
2 two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms.
3 Vacancies in the membership of the commission shall be filled in the same manner
4 as original appointments. Appointments to fill vacancies occurring before the
5 expiration of a term shall be for the remainder of the unexpired term.

6 (3) The commission shall first meet at the call of the Governor and thereafter as the
7 commission shall determine on a regular basis, but at least quarterly, and shall be
8 presided over by a chairperson elected by its members for a one (1) year term. A
9 majority of commission members shall constitute a quorum, and decisions shall
10 require the majority vote of those present; except that ~~for a recommendation to the~~
11 ~~Governor pertaining to~~ the appointment, renewal of the appointment, or removal of
12 the public advocate shall require a majority vote of the commission. Each member
13 of the commission shall have one (1) vote, and voting by proxy shall be prohibited.

14 (4) The public advocate shall, upon appointment or renewal, be an ex officio member
15 of the commission without the power to vote, shall serve as secretary of the
16 commission, and shall be entitled to attend and participate in all meetings of the
17 commission except discussions relating to renewal of his or her term or his or her
18 removal.

19 (5) Commission members shall be reimbursed for reasonable and necessary expenses
20 incurred while engaged in carrying out the duties of the commission and shall
21 receive one hundred dollars (\$100) per day for each meeting attended unless
22 prohibited by law from receiving such compensation.

23 (6) The commission shall:

24 (a) Receive applications, interview, and recommend to the Governor three (3)
25 attorneys as nominees for appointment as the public advocate;

26 (b) Assist the public advocate in drawing up procedures for the selection of his or
27 her staff;

- 1 (c) Review the performance of the public advocacy system and provide general
2 supervision of the public advocate;
- 3 (d) Assist the Department of Public Advocacy in ensuring its independence
4 through public education regarding the purposes of the public advocacy
5 system; and
- 6 (e) Review and adopt an annual budget prepared by the public advocate for the
7 system and provide support for budgetary requests to the General Assembly.
- 8 (7) In no event shall the commission or its members interfere with the discretion,
9 judgment, or advocacy of employees of the Department of Public Advocacy in their
10 handling of individual cases.