

1 AN ACT relating to indemnification of prosecutors.

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

3 ➔Section 1. KRS 15.753 is amended to read as follows:

4 (1) This section shall apply to:

- 5 (a) The Attorney General and his ***or her*** staff;
- 6 (b) A county attorney and his ***or her*** staff; and
- 7 (c) A Commonwealth's attorney and his ***or her*** staff.

8 (2) A person named in subsection (1) of this section who is sued for any act or omission
9 in the course of his ***or her*** duties and who ~~has a judgment for monetary damages~~
10 ~~rendered against him and who personally~~ suffers actual financial loss,
11 unreimbursed from any source, ~~by the enforcement and satisfaction of the~~
12 ~~judgment,~~ including any costs or attorney's fees awarded ***as a result of the***
13 ***action*** ~~[pursuant thereto],~~ ***or any costs or reasonable attorney's fees incurred in***
14 ***defending the action,*** shall be indemnified by the Commonwealth from funds
15 appropriated to the Finance and Administration Cabinet for the payment of
16 judgments, to the extent of his ***or her*** actual financial loss.

17 (3) The indemnification shall be contingent upon an express determination by the
18 Prosecutor's Advisory Council that the act or omission which resulted in liability ***or***
19 ***financial loss*** was within the scope and course of the officer's employment and
20 occurred during the performance of duty and was committed or omitted in the good
21 faith belief that the act or omission was lawful and proper.

22 (4) If the officer seeking indemnification is the Attorney General, the determination
23 referred to in subsection (3) of this section shall be made by the Governor.

24 (5) The indemnification shall not be construed to abrogate or limit any privilege,
25 immunity, or matter of defense otherwise available to the person claiming
26 indemnification and shall not constitute a waiver of any privilege, immunity, or
27 matter or defense including the sovereign immunity of the Commonwealth.

- 1 (6) The indemnification shall not be the subject of comment, directly or indirectly,
- 2 before any jury hearing any cause of action in which the Attorney General, a county
- 3 or Commonwealth's attorney, or a member of their staff is a party, and any comment
- 4 before the jury shall result in an immediate mistrial.