

**Revised Statutes of 1846 (EXCERPT)**  
**R.S. of 1846**  
Chapter 14  
Chapter 14. Of County Officers.  
PROSECUTING ATTORNEY.

**49.153 Prosecuting attorney; duties.**

Sec. 53.

The prosecuting attorneys shall, in their respective counties, appear for the state or county, and prosecute or defend in all the courts of the county, all prosecutions, suits, applications and motions whether civil or criminal, in which the state or county may be a party or interested.

**History:** R.S. 1846, Ch. 14 ;-- CL 1857, 393 ;-- CL 1871, 529 ;-- How. 551 ;-- CL 1897, 2556 ;-- CL 1915, 2405 ;-- CL 1929, 1286 ;-- CL 1948, 49.153

**Compiler's Notes:** The above section as originally enacted was numbered section 54.

**49.154 Prosecuting attorney; appearance before magistrate.**

Sec. 54.

Each prosecuting attorney shall, when requested by any magistrate of the county, appear in behalf of the people of this state before any such magistrate, other than those exercising the police jurisdiction of incorporated cities and villages, and prosecute all complaints made in behalf of the people of this state, of which such magistrate shall have jurisdiction.

**History:** R.S. 1846, Ch. 14 ;-- CL 1857, 394 ;-- CL 1871, 530 ;-- How. 552 ;-- CL 1897, 2557 ;-- CL 1915, 2406 ;-- CL 1929, 1287 ;-- CL 1948, 49.154

**Compiler's Notes:** The above section as originally enacted was numbered section 55.

**49.155 Opinions of prosecuting attorney or county corporation counsel.**

Sec. 55.

The prosecuting attorney, or county corporation counsel in a county which has employed an attorney in lieu of the prosecuting attorney to represent the county in civil matters, shall give opinions, in cases where this state, a county, or a county officer may be a party or interested, when required by a civil officer in the discharge of the officer's respective official duties relating to an interest of the state or county.

**History:** R.S. 1846, Ch. 14 ;-- CL 1857, 395 ;-- CL 1871, 531 ;-- How. 553 ;-- CL 1897, 2558 ;-- CL 1915, 2407 ;-- CL 1929, 1288 ;-- CL 1948, 49.155 ;-- Am. 1978, Act 535, Imd. Eff. Dec. 21, 1978

**Compiler's Notes:** The above section as originally enacted was numbered section 56.

**49.158 Prosecuting attorney; acceptance of fees, interest in proceedings prohibited.**

Sec. 58.

No prosecuting attorney shall receive any fee or reward from or on behalf of any prosecutor or other individual for services in any prosecution or business to which it shall be his official duty to attend, nor be concerned as

attorney or counsel for either party other than the state or county in any civil action depending upon the same state of facts upon which any criminal prosecution commenced or prosecuted shall depend, or in any action for malicious prosecution brought in consequence of any criminal prosecution commenced or prosecuted during his term of office in the county of which he is prosecuting attorney; nor shall any attorney be permitted to prosecute or aid in prosecuting any person for an alleged criminal offense where he is engaged or interested in any civil suit or proceeding depending upon the same state of facts against such person directly or indirectly.

**History:** R.S. 1846, Ch. 14 ;-- CL 1857, 398 ;-- CL 1871, 534 ;-- Am. 1883, Act 32, Eff. Sept. 8, 1883 ;-- How. 557 ;-- CL 1897, 2561 ;-- CL 1915, 2410 ;-- CL 1929, 1291 ;-- CL 1948, 49.158

#### **49.159 Prosecuting attorney; compensation.**

Sec. 59.

(1) The prosecuting attorney shall receive compensation for his or her services, as the county board of commissioners, by an annual salary or otherwise, orders and directs.

(2) Notwithstanding subsection (1), for a county which has a county officers compensation commission, the compensation of the prosecuting attorney of that county shall be determined by that commission.

**History:** R.S. 1846, Ch. 14 ;-- CL 1857, 399 ;-- CL 1871, 535 ;-- How. 558 ;-- CL 1897, 2562 ;-- CL 1915, 2411 ;-- CL 1929, 1292 ;-- CL 1948, 49.159 ;-- Am. 1978, Act 489, Imd. Eff. Dec. 1, 1978

**Compiler's Notes:** This section as originally enacted was numbered section 60.

#### **49.160 Special prosecuting attorney; appointment; powers and duties; assistant prosecuting attorney.**

Sec. 60.

(1) If the prosecuting attorney of a county determines himself or herself to be disqualified by reason of conflict of interest or is otherwise unable to attend to the duties of the office, he or she shall file with the attorney general a petition stating the conflict or the reason he or she is unable to serve and requesting the appointment of a special prosecuting attorney to perform the duties of the prosecuting attorney in any matter in which the prosecuting attorney is disqualified or until the prosecuting attorney is able to serve.

(2) If the attorney general determines that a prosecuting attorney is disqualified or otherwise unable to serve, the attorney general may elect to proceed in the matter or may appoint a prosecuting attorney or assistant prosecuting attorney who consents to the appointment to act as a special prosecuting attorney to perform the duties of the prosecuting attorney in any matter in which the prosecuting attorney is disqualified or until the prosecuting attorney is able to serve.

(3) A special prosecuting attorney appointed under this section is vested with all of the powers of the prosecuting attorney for the purpose of the appointment and during the period of appointment, including the power to investigate and initiate charges. The cost of prosecution, other than personnel costs, in any matter handled by a special prosecuting attorney shall be borne by the office of the prosecuting attorney who has been determined to be disqualified or otherwise unable to serve.

(4) This section does not apply if an assistant prosecuting attorney has been or can be appointed by the prosecuting attorney pursuant to section 18 of chapter 16 of the code of criminal procedure, 1927 PA 175, MCL 776.18, to perform the necessary duties within the constraints of that section or if an assistant prosecuting attorney has been otherwise appointed by the prosecuting attorney pursuant to law and is not disqualified from acting in place of the prosecuting attorney.

**History:** R.S. 1846, Ch. 14 ;-- CL 1857, 400 ;-- CL 1871, 536 ;-- How. 559 ;-- CL 1897, 2563 ;-- CL 1915, 2412 ;-- CL 1929, 1293 ;-- CL 1948, 49.160 ;-- Am. 1978, Act 535, Imd. Eff. Dec. 21, 1978 ;-- Am. 2002, Act 706, Eff. Feb. 1, 2003

**Compiler's Notes:** This section as originally enacted was numbered section 61.