

**TITLE 30-A
MUNICIPALITIES AND COUNTIES**

**PART 1
COUNTIES**

**CHAPTER 1
COUNTY OFFICERS**

**SUBCHAPTER 5
DISTRICT ATTORNEYS**

**ARTICLE 1
ELECTION AND TENURE**

§251. Election; qualifications

District attorneys shall be elected as provided in this section. They shall enter office on the first day of January following their election.

1. Election. The district attorneys shall be elected on the Tuesday following the first Monday of November in every 4th year, by the voters of the respective prosecutorial districts. The votes shall be received, sorted, counted and declared in the same manner as votes for Representatives. The names of the persons voted for, the number of votes for each and the whole number of ballots received shall be recorded by the clerk of each municipality within the prosecutorial district. The clerk shall send true copies of these names and totals, sealed and attested as returns of votes for Senators, to the Secretary of State.

2. Qualifications. Only an attorney who is a member in good standing of the bar of the State and who resides in the prosecutorial district may be elected or appointed district attorney. Removal from the prosecutorial district or disbarment or suspension from the practice of law vacates the office. For purposes of this subsection, a person is a "member in good standing of the bar of the State" if that person is admitted to the practice of law in this State, is presently registered with the Board of Overseers of the Bar as an active practitioner and is not currently disbarred or suspended from practice in this State pursuant to Title 4, chapter 17, subchapter 2 or the Maine Bar Rules.

3. Term of office. The term of office for a district attorney is 4 years, except when one is elected to fill out an unexpired term, in which case it is for the remainder of the unexpired term.

§252. Vacancies in office

A vacancy in the office of district attorney, because of expiration of the term of office, death, permanent incapacity, removal from office under section 257, removal from the prosecutorial district, or otherwise, shall be filled under this section, except as provided in section 253.

1. Vacancies caused by expiration of the term. Vacancies occurring by expiration of the term of office shall be filled by election in that year as provided in section 251.

2. Vacancies caused by other reasons. When no person is elected or a vacancy happens in the office of district attorney, other than as provided in subsection 1, the Governor shall appoint a competent attorney, a resident of the prosecutorial district affected, to serve as a substitute district attorney until the first day of January following the next biennial election. At that election, a person shall be elected to the office of district attorney to serve for the remainder of the unexpired term. When the office of district attorney becomes vacant after the first day of October in the 2nd year after the election of a district attorney under section 251, a new election shall not be held to fill the vacancy, but the substitute district attorney shall serve for the remainder of the unexpired term.

A. In the case of a vacancy in the term of a district attorney who was nominated by primary election before the general election, the district attorney appointed by the Governor must be enrolled in the same political party as the district attorney whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county committee or committees of the political party from which the appointment is to be made.

§253. Military or naval service; substitutes

Whenever a district attorney during the district attorney's term of office in time of war, contemplated war or emergency, enlists, enrolls, is called or drafted into the military service of the United States, that district attorney is not deemed to have thereby resigned from or abandoned the office; nor is the district attorney removable from that office during military service except that the term of office may not be held to have been lengthened because of this section. From the time of induction into service, the district attorney is regarded as on leave of absence without pay from the office and the Governor shall appoint a competent attorney, a resident of the same prosecutorial district, to fill the office while the district attorney is in the federal service, but not for a longer period than the remaining portion of the district attorney's term. During the period of military or naval service, the Treasurer of State shall pay to the substitute attorney a salary at the same rate as the rate of pay of the district attorney and amounts so paid shall be deducted from the salary of the district attorney. The attorney so appointed to fill the temporary vacancy has the title of "substitute district attorney" and possesses all the rights and powers and is subject to all the duties and obligations of the district attorney.

§254. Prosecutorial districts

1. Prosecutorial District Number 1. There shall be one district attorney for York County, which shall be known as "Prosecutorial District Number 1." The district attorney shall be elected by the voters of York County in the manner set forth in section 251.

2. Prosecutorial District Number 2. There shall be one district attorney for Cumberland County, which shall be known as "Prosecutorial District Number 2." The district attorney shall be elected by the voters of Cumberland County in the manner set forth in section 251.

3. Prosecutorial District Number 3. There shall be one district attorney for Oxford, Franklin and Androscoggin Counties, which shall be known as "Prosecutorial District Number 3." The district attorney shall be elected by the voters of Oxford, Franklin and Androscoggin Counties in the manner set forth in section 251.

4. Prosecutorial District Number 4. There shall be one district attorney for Kennebec and Somerset Counties, which shall be known as "Prosecutorial District Number 4." The district attorney shall be elected by the voters of Kennebec and Somerset Counties in the manner set forth in section 251.

5. Prosecutorial District Number 5. There shall be one district attorney for Penobscot and Piscataquis Counties, which shall be known as "Prosecutorial District Number 5." The district attorney shall be elected by the voters of Penobscot and Piscataquis Counties in the manner set forth in section 251.

6. Prosecutorial District Number 6. There shall be one district attorney for Sagadahoc, Lincoln, Knox and Waldo Counties, which shall be known as "Prosecutorial District Number 6." The district attorney shall be elected by the voters of Sagadahoc, Lincoln, Knox and Waldo Counties in the manner set forth in section 251.

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7. Prosecutorial District Number 7. There shall be one district attorney for Hancock and Washington Counties, which shall be known as "Prosecutorial District Number 7." The district attorney shall be elected by the voters of Hancock and Washington Counties in the manner set forth in section 251.

8. Prosecutorial District Number 8. There shall be one district attorney for Aroostook County, which shall be known as "Prosecutorial District Number 8." The district attorney shall be elected by the voters of Aroostook County in the manner set forth in section 251.

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§255. District attorney salaries

1. Annual salary. The District Attorney for each of the prosecutorial districts shall be within salary range 90 with the step within that salary range to be determined by the Attorney General, subject to the approval of the Governor.

2. Biweekly payments. The district attorneys and their assistants shall receive their annual salaries from the State Treasury in biweekly payments on a date to be determined by the State Controller and in a sum which, in a year aggregate, will most nearly equal the annual salary.

3. Additional sums.

4. Prior service.

5. Limitation. The salary of any district attorney may not exceed that of a Justice of the Superior Court.

§256. Full-time district attorneys

All district attorneys and assistant district attorneys designated as full-time assistants are full-time officers of the State. During their terms of office, they may not:

1. Appear as counsel. Appear as counsel in any civil or criminal case or controversy before the Supreme Judicial Court, Superior Courts or District Courts of the State or comparable courts in any other state or before the United States District Court or at any administrative hearing held by any state or United States agency other than in their capacity as district attorney; or

2. Private practice of law. Engage in the private practice of law nor be a partner or associate of any person engaged in the private practice of law nor be a member or employee of a professional association engaged in the private practice of law.

§257. Removal from office

The Justices of the Supreme Judicial Court have jurisdiction to remove any district attorney from office, by majority vote of the justices sitting, upon complaint filed with the court by the Attorney General, and after notice and hearing, as provided in this section.

1. Expedited proceeding. Proceedings under this section shall be expedited insofar as practicable and shall take precedence over all other matters except requests for opinions of the justices and petitions for writs of habeas corpus.

2. Complaint; application of court rules. The complaint in a proceeding under this section shall contain a short and plain statement of facts showing that grounds for removal exist. The proceedings shall be conducted in accordance with the Maine Rules of Civil Procedure and the Maine Rules of Evidence, except that:

A. Discovery procedures may be used only by order of the court on motion for cause shown; and

B. The court may modify any rule or restrict its application as is necessary or appropriate to expedite the proceeding and ensure that the court is as fully informed of the relevant and material facts as practicable.

3. Removal. If a majority of the justices sitting finds, by clear and convincing evidence, that the respondent district attorney has violated a statute or is not performing the duties of office faithfully and efficiently, and finds in consequence that removal from office is necessary in the public interest, judgment to that effect shall be entered, and the respondent shall thereby be removed from office as district attorney.

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