

State Prosecutor Removal Statutes and Constitutional Provisions

August 9, 2024

ALABAMA

Ala. Code § 36-11-1

- a) The following officers may be impeached and removed from office: ...district attorneys...
- (b) The officers specified in subsection (a) of this section may be impeached and removed from office for the following causes:
- (1) Willful neglect of duty;
 - (2) Corruption in office;
 - (3) Incompetency;
 - (4) Intemperance in the use of intoxicating liquors or narcotics to such an extent in view of the dignity of the office and importance of its duties as unfits the officer for the discharge of such duties; or
 - (5) Any offense involving moral turpitude while in office or committed under color thereof or connected therewith.

Ala. Code § 36-11-3

It shall be the duty of every grand jury to investigate and make diligent inquiry concerning any alleged misconduct or incompetency of any public officer in the county which may be brought to its notice; and, if, on such investigation and inquiry, it finds that such officer, for any cause mentioned in this chapter, ought to be removed from office, it shall so report to the court, setting forth the facts, which report shall be entered on the minutes of the court. If the officer so reported against is one of those included in Section 174, Article 7, of the constitution, the clerk of the court shall transmit a certified copy of such report to the Attorney General. If the officer so reported against is the presiding judge of the court, the report must not be made to the court or entered on the minutes; and, in such cases, the report of the grand jury must be signed by the foreman and countersigned by the district attorney, who must transmit the same to the Attorney General.

ALASKA

Alaska Const. Art. II, § 20

All civil officers of the State are subject to impeachment by the legislature. Impeachment shall originate in the senate and must be approved by a two-thirds vote of its members. The motion for impeachment shall list fully the basis for the proceeding. Trial on impeachment shall be conducted by the house of representatives. A supreme court justice designated by the court shall preside at the trial. Concurrence of two-thirds of the members of the house is required for a judgment of impeachment. The judgment may not extend beyond removal from office, but shall not prevent proceedings in the courts on the same or related charges.

ARIZONA

Ariz. Rev. Stat. § 38-311

The governor, every state and judicial officer, except justices of courts not of record, shall be liable to impeachment for high crimes, misdemeanors or malfeasance in office.

Ariz. Rev. Stat. § 38-312

Impeachment shall be instituted in the house of representatives by resolution, and shall be conducted by managers elected by the house of representatives, who shall prepare articles of impeachment, present them at the bar of the senate and prosecute them. The hearing shall be heard before the senate sitting as a court of impeachment.

Ariz. Rev. Stat. Ann. § 38-341

A. An accusation, in writing, against a county, district or precinct officer for wilful or corrupt misconduct in office may be presented by a grand jury of the county for or in which the officer accused is elected or appointed.

B. The accusation shall state the offense charged in ordinary and concise language, and without repetition.

38-344. Procedure upon accusation of county attorney

The same proceedings on the same grounds as provided in this article may be had for removal of the county attorney, except that the accusation shall be delivered to a judge of the superior court of the county, who shall thereupon file the accusation with the clerk of the court and appoint a person to act as prosecuting officer in the matter.

ARKANSAS

Ark. Const. Art. 15, § 1

The Governor and all State officers, Judges of the Supreme and Circuit Courts, Chancellors and Prosecuting Attorneys, shall be liable to **impeachment** for high crimes and misdemeanors, and gross misconduct in office; but the judgment shall go no further than removal from office and disqualification to hold any office of honor, trust or profit under this State. An **impeachment**, whether successful or not, shall be no bar to an indictment.

Ark. Const. art. XV, § 2

The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members

thereof. The Chief Justice shall preside, unless he is impeached or otherwise disqualified, when the Senate shall select a presiding officer.

Ark. Const. Art. 15, § 3

The governor, upon the joint address of two-thirds of all the members elected to each House of the General Assembly, for good cause, may remove the Auditor, Treasurer, Secretary of State, Attorney-General, Judges of the Supreme and Circuit Courts, Chancellors and Prosecuting Attorneys.

Ark. Code Ann. § 16-90-112

(a) Where judges of the probate division of circuit court, justices of the peace, county sheriffs, county coroners, county surveyors, jailers, county assessors, prosecuting attorneys, constables, city or police judges, clerks, and marshals shall be convicted upon an indictment for malfeasance or misfeasance in office, for willful neglect in the discharge of their official duties, or for any offense which by statute law or the Arkansas Constitution creates a forfeiture of their offices, the court shall render a judgment of removal from office in addition to the other penalties and punishment prescribed by law.

(b) Every person convicted of bribery or felony shall be excluded from every office of trust or profit and from the right of suffrage in this state.

CALIFORNIA

Cal. Gov't Code § 3020

State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office.

Cal. Gov't Code § 3022

The managers shall prepare articles of impeachment, present them at the bar of the Senate, and prosecute them. The trial shall be before the Senate, sitting as a court of impeachment.

Cal. Gov't Code § 3060

An accusation in writing against any officer of a district, county, or city, including any member of the governing board or personnel commission of a school district or any humane officer, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for, or in, which the officer accused is elected or appointed. The grand jury presenting the accusation may also be the additional grand jury impaneled pursuant to Section 904.4, 904.6, or 904.8 of the Penal Code. An accusation may not be presented without the concurrence of at least 12 grand jurors, or at least 8 grand jurors in a county in which the required number of members of the

grand jury is 11, or at least 14 grand jurors in a county in which the required number of members of the grand jury is 23.

Cal. Gov't Code Ann. § 3073

The same proceedings may be had on like grounds for the removal of a district attorney, except that the accusation shall be delivered by the foreman of the grand jury to the clerk, and by him to a judge of the superior court of the county. The judge shall appoint a person to act as prosecuting officer in the matter, or place the accusation in the hands of the district attorney of an adjoining county, and require him to conduct the proceedings.

COLORADO

Colo. Const. art. XIII, § 1

The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

Colo. Const. art. XIII, § 2

The governor and other state and judicial officers, shall be liable to impeachment for high crimes or misdemeanors or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit in the state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

CONNECTICUT

Conn. Const. art. IX, § 1

The house of representatives shall have the sole power of impeaching.

Conn. Const. art. IX, § 2

All impeachments shall be tried by the senate. When sitting for that purpose, they shall be on oath or affirmation. No person shall be convicted without the concurrence of at least two-thirds of the members present. When the governor is impeached, the chief justice shall preside.

Conn. Const. art. IX, § 3

The governor, and all other executive and judicial officers, shall be liable to impeachment; but judgments in such cases shall not extend further than to removal from office, and disqualification

to hold any office of honor, trust or profit under the state. The party convicted, shall, nevertheless, be liable and subject to indictment, trial and punishment according to law.

FLORIDA

Fla. Const. art. IV, § 7

(a) By executive order stating the grounds and filed with the custodian of state records, the governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony, and may fill the office by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the governor.

(b) The senate may, in proceedings prescribed by law, remove from office or reinstate the suspended official and for such purpose the senate may be convened in special session by its president or by a majority of its membership.

(c) By order of the governor any elected municipal officer indicted for crime may be suspended from office until acquitted and the office filled by appointment for the period of suspension, not to extend beyond the term, unless these powers are vested elsewhere by law or the municipal charter.

GEORGIA

Ga. Const. art. III, § 7, ¶ I

The House of Representatives shall have the sole power to vote impeachment charges against any executive or judicial officer of this state or any member of the General Assembly.

Ga. Const. art. III, § 7, ¶ II

The Senate shall have the sole power to try impeachments. When sitting for that purpose, the Senators shall be on oath, or affirmation, and shall be presided over by the Chief Justice of the Supreme Court. Should the Chief Justice be disqualified, then the Presiding Justice shall preside. Should the Presiding Justice be disqualified, then the Senate shall select a Justice of the Supreme Court to preside. No person shall be convicted without concurrence of two-thirds of the members to which the Senate is entitled.

Ga. Code Ann. § 15-18-24

If a district attorney fails to comply with [the duties listed in] Code Section 15-18-6, he is liable to rule as are attorneys at law, with all the penalties and remedies applicable thereto. Failure to

comply with the terms of a rule absolute within 20 days from the time it becomes final shall be a ground for impeachment.

Ga. Code Ann. § 45-11-4

(a) As used in this Code section, the term:

(3) “Public officer” means a county officer, a municipal officer, and state officials as provided in Code Section 45-15-11.

(b) A public officer may be charged under this Code section for:

(1) Malpractice, misfeasance, or malfeasance in office;

(2) Using oppression or tyrannical partiality in the administration or under the color of his or her office;

(3) When required by law, willfully refusing or failing to preside in or hold his or her court at the regular terms thereof, or when it is his or her duty under the law to do so;

(4) Using any other deliberate means to delay or avoid the due course or proceeding of law; or

(5) Willfully and knowingly demanding more cost than he or she is entitled to by law in the administration and under color of his or her office.

IDAHO

Idaho Code Ann. § 19-4101

An accusation in writing against any district, county, precinct, or municipal officer, for wilful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed.

Idaho Code Ann. § 19-4110

The trial must be by a jury, and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.

Idaho Code Ann. § 19-4114

The same proceedings may be had on like grounds for the removal of a prosecuting attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by him to the district judge of the district, who must thereupon appoint some one to act as prosecuting officer in the matter, or place the accusation in the hands of the prosecuting attorney of an adjoining county, and require him to conduct the proceedings.

ILLINOIS

Illinois Const., Art. IV, § 14

The House of Representatives has the sole power to conduct legislative investigations to determine the existence of cause for impeachment and, by the vote of a majority of the members elected, to impeach Executive and Judicial officers. Impeachments shall be tried by the Senate. When sitting for that purpose, Senators shall be upon oath, or affirmation, to do justice according to law. If the Governor is tried, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected. Judgment shall not extend beyond removal from office and disqualification to hold any public office of this State. An impeached officer, whether convicted or acquitted, shall be liable to prosecution, trial, judgment and punishment according to law.

INDIANA

Ind. Const. art. VI, § 8

Section 8. All State, county, township, and town officers, may be impeached, or removed from office, in such manner as may be prescribed by law.

Ind. Const. art. VI, § 7

Section 7. All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the House of Representatives, to be tried by the Senate, or by a joint resolution of the General Assembly; two-thirds of the members elected to each branch voting, in either case, therefor.

Ind. Code Ann. § 5-8-1-1

Sec. 1. (a) Under Article 6, Sections 7 and 8 of the Constitution of the State of Indiana, all state officers other than justices of the supreme court or judges of the court of appeals of Indiana or the Indiana tax court, all other judges, prosecuting attorneys, and all county, city, town, and township officers are liable to impeachment for any misdemeanor in office.

Ind. Code Ann. § 5-8-1-21

Sec. 21. An accusation in writing against any district officer, county officer, township officer, municipal officer, or prosecuting attorney may be presented by the grand jury of the county in which the officer accused is elected or appointed.

IOWA

Iowa Code Ann. § 66.1A

Any appointive or elective officer, except such as may be removed only by impeachment, holding any public office in the state or in any division or municipality thereof, may be removed from office by the district court for any of the following reasons:

1. For willful or habitual neglect or refusal to perform the duties of the office.
2. For willful misconduct or maladministration in office.
3. For corruption.
4. For extortion.
5. Upon conviction of a felony.
6. For intoxication, or upon conviction of being intoxicated.
7. Upon conviction of violating the provisions of chapter 68A.
8. For failure to pay a fine imposed pursuant to section 39A.6 and not dismissed pursuant to chapter 17A.

Iowa Code Ann. § 66.3

The petition for removal may be filed:

1. By the attorney general in all cases.
2. As to state officers, by not fewer than twenty-five electors of the state.
3. As to any other officer, by five registered voters of the district, county, or municipality where the duties of the office are to be performed.
4. As to district officers, by the county attorney of any county in the district.

5. As to all county and municipal officers, by the county attorney of the county where the duties of the office are to be performed.

KANSAS

Kan. Const. Art. 4, § 3

All elected public officials in the state, except judicial officers, shall be subject to recall by voters of the state or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by law.

Kan. Stat. Ann. § 25-4302

- (a) Grounds for recall are conviction of a felony, misconduct in office or failure to perform duties prescribed by law. No recall submitted to the voters shall be held void because of the insufficiency of the grounds, application, or petition by which the submission was procured.
- (b) As used in this section, the term “misconduct in office” means a violation of law by the officer that impacts the officer’s ability to perform the official duties of the office.

Kan. Stat. Ann. § 25-4304

- (a) K.S.A. 25-4305 to 25-4317, inclusive, apply only to recall of the governor, members of the legislature, any public officials elected by the electors of the entire state and members of the state board of education. For the purpose of this act, officers mentioned in this subsection are “state officers.”
- (b) The provisions of this act do not apply to any judicial officer.

KENTUCKY

Ky. Const. § 227

Judges of the County Court, Justices of the Peace, Sheriffs, Coroners, Surveyors, Jailers, Assessors, County Attorneys and Constables shall be subject to indictment or prosecution for misfeasance or malfeasance in office, or willful neglect in discharge of official duties, in such mode as may be prescribed by law, and upon conviction his office shall become vacant, but such officer shall have the right to appeal to the Court of Appeals. Provided, also, that the General Assembly may, in addition to the indictment or prosecution above provided, by general law, provide other manner, method or mode for the vacation of office, or the removal from office of any sheriff, jailer, constable or peace officer for neglect of duty, and may provide the method, manner or mode of reinstatement of such officers.

Ky. Const. § 68

The Governor and all civil officers shall be liable to impeachment for any misdemeanors in office

Ky. Const. § 66

The House of Representatives shall have the sole power of impeachment.

Ky. Rev. Stat. Ann. § 63.020

Proceedings for impeachment or removal by address may be instituted by the House of Representatives without a petition from any person.

LOUISIANA

La. Const. Ann. art. X, § 24

(A) Persons Liable. A state or district official, whether elected or appointed, shall be liable to impeachment for commission or conviction, during his term of office of a felony or for malfeasance or gross misconduct while in such office.

(B) Procedure. Impeachment shall be by the House of Representatives and trial by the Senate, with senators under oath or affirmation for the trial. The concurrence of two-thirds of the elected senators shall be necessary to convict. The Senate may try an impeachment whether or not the House is in session and may adjourn when it deems proper. Conviction upon impeachment shall result in immediate removal from office. Nothing herein shall prevent other action, prosecution, or punishment authorized by law.

MAINE

Me. Rev. Stat. tit. 30-A, § 257

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.

Me. Const. Art. IX, § 5

Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor on the address of both branches of the Legislature. But before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that the person may be admitted to a hearing in that person's own defense

MARYLAND

MD CRIM PROC § 14-102(d)

(d) Only on the recommendation of the Commission, the Governor may remove the State Prosecutor for:

- (1) misconduct in office;
- (2) persistent failure to perform the duties of the office; or
- (3) conduct prejudicial to the proper administration of justice.

Md. Const. art. V, § 7

There shall be an Attorney for the State in each county and the City of Baltimore, to be styled "The State's Attorney", who shall be elected by the voters thereof, respectively, and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified; and shall be re-eligible thereto, and be subject to removal therefrom, for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a Court of Law, or by a vote of two-thirds of the Senate, on the recommendation of the Attorney-General.

MASSACHUSETTS

Mass. Gen. Laws Ann. ch. 211, § 4

A majority of the justices may, if in their judgment the public good so requires, remove from office a clerk of the courts or of their own court; and if sufficient cause is shown therefor and it appears that the public good so requires, may, upon a complaint, upon a summary hearing or otherwise, remove a clerk of the superior court in Suffolk county, or of a district court, a county commissioner, a county treasurer, sheriff, register of probate or district attorney, or the recorder of the land court.

MICHIGAN

Mich. Comp. Laws Ann. § 168.327

Sec. 327. The governor shall remove all city officers chosen by the electors of a city or any ward or voting district of a city, when the governor is satisfied from sufficient evidence submitted to the governor that the officer has been guilty of official misconduct, wilful neglect of duty, extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it appears by a certified copy of the judgment of a court of record of this state that a city officer, after the officer's election or appointment, has been convicted of a felony. The governor shall not take action upon any charges made to the governor against a city officer until the charges have been exhibited to the governor in writing, verified by the affidavit of the party making them, that he or she believes the charges to be true. But a city officer shall not be removed for misconduct or neglect until charges of misconduct or neglect have been exhibited to the governor as provided in this section and a copy of the charges served on the officer and an opportunity given the officer of being heard in his or her defense. The service of the charges upon the officer complained against shall be made by personal service to the officer of a copy of the charges, together with all affidavits or exhibits which may be attached to the original petition, if the officer can be found; and if not, by leaving a copy at the last known place of residence of the officer, with a person of suitable age, if a person of suitable age can be found; and if not, by posting the copy of the charges in a conspicuous place at the officer's last known place of residence. An officer who has been removed from office pursuant to this section shall not be eligible for election or appointment to any office for a period of 3 years from the date of the removal. A person who has been convicted of a violation of section 12a(1) of Act No. 370 of the Public Acts of 1941, being section 38.412a of the Michigan Compiled Laws, shall not be eligible for election or appointment to an elective or appointive city office for a period of 20 years after conviction.

MINNESOTA

Minn. Stat. Ann. § 351.15

An elected county official may be removed from office in accordance with the procedures established in sections 351.14 to 351.23.

Minn. Stat. Ann. § 351.14

Subdivision 1. Applicability. — The definitions in this section apply to sections 351.14 to 351.23.

Subd. 2. Malfeasance. — “Malfeasance” means the willful commission of an unlawful or wrongful act in the performance of a public official’s duties which is outside the scope of the authority of the public official and which infringes on the rights of any person or entity.

Subd. 3. Nonfeasance. — “Nonfeasance” means the willful failure to perform a specific act which is a required part of the duties of the public official.

Subd. 4. Misfeasance. — “Misfeasance” means the negligent performance of the duties of a public official or the negligent failure to perform a specific act which is a required part of the duties of the public official.

Subd. 5. Elected county official. — “Elected county official” means any public official who is elected to countywide office or appointed to an elective countywide office, including county attorney, county sheriff, county auditor, county recorder, county treasurer, and soil and water conservation supervisor. “Elected county official” also means a county commissioner elected or appointed from a commissioner district or a soil and water conservation district supervisor elected or appointed from a supervisor district established under section 103C.311, subdivision 2.

Minn. Stat. Ann. § 351.16

Subdivision 1. Form of petition. — Any registered voter may petition the county auditor requesting a removal election and setting forth facts which allege with specificity that an elected county official committed malfeasance or nonfeasance in the performance of official duties during the current or any previous term in the office held by the elected county official, except that a petition may not be submitted during the 180 days immediately preceding a general election for the office which is held by the county official named in the petition. The petitioner must attach to the petition documents which contain the signatures of supporters who are registered voters totaling at least 25 percent of the number of persons who voted in the preceding election for the office which is held by the county official named in the petition. Each page on which signatures are included must clearly identify the purpose of the petition. The registered voters must be residents of the county or, in a removal election involving a county commissioner, of the commissioner district which elected the named county commissioner. The signatures of supporters must be on forms provided by the county auditor.

Subd. 2. County auditor’s duties. — The county auditor shall examine the petition to determine whether it contains the requisite number of valid signatures of registered voters. If so, the county auditor shall forward the petition, but not the signatures, to the clerk of appellate courts within 15 days of receipt of the petition. If the county auditor determines that the petition does not include the requisite number of signatures, the county auditor shall deny the petition within 15 days of receipt of the petition.

Subd. 3. Removal of county auditor. — If the county auditor is the named elected county official, the petition must be submitted to the chair of the county board of commissioners who shall appoint a county official to perform the duties of the county auditor specified in sections 351.14 to 351.23.

Subd. 4. Limitation. — An elected county official is not subject to a removal election on the ground that misfeasance in the performance of official duties was committed, or on the ground of disagreement with actions taken that were within the lawful discretion of the elected county official.

MISSISSIPPI

Miss. Const. art. VI, § 175

All public officers, for wilful neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by a grand jury; and, upon conviction, shall be removed from office, and otherwise punished as may be prescribed by law.

Miss. Const. art. IV, § 49

The House of Representatives shall have the sole power of impeachment; but two-thirds of all the members present must concur therein. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the senators shall be sworn to do justice according to law and the evidence.

Miss. Const. art. IV, § 50

The Governor and all other civil officers of this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office.

MISSOURI

Mo. Rev. Stat. Ann. § 106.230

When any person has knowledge that any official mentioned in section 106.220 has failed, personally, to devote his time to the performance of the duties of such office, or has been guilty of any willful, corrupt or fraudulent violations or neglect of any official duty, or has knowingly or willfully failed or refused to perform any official act or duty which by law it was his duty to do or perform with respect to the execution or enforcement of the criminal laws of this state, he may make his affidavit before any person authorized to administer oaths, setting forth the facts constituting such offense and file the same with the clerk of the court having jurisdiction of the offense, for the use of the prosecuting attorney or deposit it with the prosecuting attorney, furnishing also the names of witnesses who have knowledge of the facts constituting such

offense; and it shall be the duty of the prosecuting attorney, if, in his opinion, the facts stated in said affidavit justify the prosecution of the official charged, to file a complaint in the circuit court as soon as practicable upon such affidavit, setting forth in plain and concise language the charge against such official, or the prosecuting attorney may file such complaint against such official upon his official oath and upon his own affidavit.

Mo. Rev. Stat. Ann. § 106.240

Upon the filing of the affidavit as provided in section 106.230, against any prosecuting attorney, the judge of the circuit court of said county may appoint a special prosecutor, who shall have power and authority to file a complaint, as provided in section 106.230, against said prosecuting attorney.

Mo. Rev. Stat. Ann. § 106.250

When an affidavit has been filed with the clerk of the circuit court of any county in this state, as provided in sections 106.230 and 106.240, the governor may, in his discretion, direct the attorney general to assist in the prosecution against said officer; and in case of the refusal of the prosecuting attorney or special prosecutor, after the filing of the affidavit provided for in sections 106.230 and 106.240, to file a complaint, the attorney general shall have authority to file a complaint against the official complained of.

MONTANA

Mont. Code Ann. § 45-7-401

(1) A public servant commits the offense of official misconduct when in an official capacity the public servant commits any of the following acts:

- (a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
- (b) knowingly performs an act in an official capacity that the public servant knows is forbidden by law;
- (c) with the purpose to obtain a personal advantage or an advantage for another, performs an act in excess of the public servant's lawful authority;
- (d) solicits or knowingly accepts for the performance of any act a fee or reward that the public servant knows is not authorized by law; or
- (e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

(2) A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The district court has exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from office without pay pending final judgment. Upon final judgment of conviction, the public servant

shall permanently forfeit the public servant's office. Upon acquittal, the public servant must be reinstated in office and must receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect an impeachment or removal.

NEBRASKA

Neb. Const. art. IV, § 5

A civil officer of this state shall be liable to impeachment for any misdemeanor in office or for any misdemeanor in pursuit of such office.

Neb. Rev. Stat. Ann. § 23-2001

All county officers may be charged, tried, and removed from office, in the manner hereinafter provided, for (1) habitual or willful neglect of duty, (2) extortion, (3) corruption, (4) willful maladministration in office, (5) conviction of a felony, (6) habitual drunkenness, or (7) official misconduct as defined in section 28-924.

Neb. Rev. Stat. Ann. § 28-924

(1) A public servant commits official misconduct if he knowingly violates any statute or lawfully adopted rule or regulation relating to his official duties.

(2) Official misconduct is a Class II misdemeanor.

Neb. Rev. Stat. Ann. § 23-2004

The complaint shall be by an accuser against the accused, and shall contain the charges with the necessary specifications under them, and be verified by the affidavit of any elector of the state that he believes the charges to be true.

NEVADA

Nev. Const. art. VII, § 2

The Governor and other State and Judicial Officers, except Justices of the Peace shall be liable to impeachment for Misdemeanor or Malfeasance in Office; but judgment in such case shall not extend further than removal from Office and disqualification to hold any Office of honor, profit, or trust under this State. The party whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law.

Nev. Const. art. VII, § 1

The Assembly shall have the sole power of impeaching. The concurrence of a majority of all the members elected, shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon Oath or Affirmation, to do justice according to Law and Evidence. The Chief Justice of the Supreme court, shall preside over the Senate while sitting to try the Governor or Lieutenant Governor upon impeachment. No person shall be convicted without the concurrence of two thirds of the Senators elected.

Nev. Rev. Stat. Ann. § 283.440

1. Any person who is now holding or who shall hereafter hold any office in this State and who refuses or neglects to perform any official act in the manner and form prescribed by law, or who is guilty of any malpractice or malfeasance in office, may be removed therefrom as hereinafter prescribed in this section, except that this section does not apply to:

- (a) A justice or judge of the court system;
- (b) A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution; or
- (c) A State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

2. Whenever a complaint in writing, duly verified by the oath of any complainant, is presented to the district court alleging that any officer within the jurisdiction of the court:

- (a) Has been guilty of charging and collecting any illegal fees for services rendered or to be rendered in the officer's office;
- (b) Has refused or neglected to perform the official duties pertaining to the officer's office as prescribed by law; or
- (c) Has been guilty of any malpractice or malfeasance in office,

the court shall cite the party charged to appear before it on a certain day, not more than 10 days or less than 5 days from the day when the complaint was presented. On that day, or some subsequent day not more than 20 days from that on which the complaint was presented, the court, in a summary manner, shall proceed to hear the complaint and evidence offered by the party complained of. If, on the hearing, it appears that the charge or charges of the complaint are sustained, the court shall enter a decree that the party complained of shall be deprived of the party's office.

3. The clerk of the court in which the proceedings are had, shall, within 3 days thereafter, transmit to the Governor or the board of county commissioners of the proper county, as the case may be, a copy of any decree or judgment declaring any officer deprived of any office under this section. The Governor or the board of county commissioners, as the case may be, shall appoint some person to fill the office until a successor shall be elected or appointed and qualified. The person so appointed shall give such bond as security as is prescribed by law and pertaining to the office.

4. If the judgment of the district court is against the officer complained of and an appeal is taken from the judgment so rendered, the officer so appealing shall not hold the office during the pendency of the appeal, but the office shall be filled as in case of a vacancy.

5. As used in this section, “malfeasance in office” includes, without limitation:

(a) Engaging in an unlawful employment practice of discrimination pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., or NRS 613.330 that is severe or pervasive such that removal from office is an appropriate remedy.

(b) Willfully failing to comply with any other sanction imposed upon a local elected officer pursuant to NRS 233.175.

Nev. Rev. Stat. Ann. § 283.300

1. An accusation in writing against any district, county, township or municipal officer for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed.

2. As used in this section, “district, county, township or municipal officer” does not include:

(a) A justice or judge of the court system;

(b) A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution; or

(c) A State Legislator removable from office only through expulsion by the State Legislator’s own House pursuant to Section 6 of Article 4 of the Nevada Constitution.

Nev. Rev. Stat. Ann. § 283.430

The same proceedings may be had on like grounds for the removal of a district attorney, except that the accusation shall be delivered to the district judge of the district. The district judge shall appoint a person to act as prosecuting officer in the matter, or place the accusation in the hands of the district attorney of an adjoining county and require that district attorney to conduct the proceedings.

NEW HAMPSHIRE

N.H. Rev. Stat. Ann. § 4:1

No state official who is not a classified employee shall be discharged or removed except for malfeasance, misfeasance, inefficiency in office, incapacity or unfitness to perform assigned duties, or for the good of the department, agency, or institution to which such official is assigned, according to the procedures set out in this section, unless otherwise provided by law.

I. The attorney general, the governor, any member of the executive council, or the appointing authority of such official, may petition the governor and council for the removal of such official setting forth the grounds and reasons therefor.

II. Upon receipt of a petition, the governor and council, by vote of 3 or more members of the executive council in concurrence with the governor shall accept the petition and schedule a hearing. The state official shall receive notice of the hearing at least 45 days prior to the hearing date.

III. The governor and council shall conduct a hearing in accordance with this section. Upon conclusion of the hearing, a vote of 3 or more council members, in concurrence with the governor, shall be required to remove the state official from office. The governor and council shall provide written findings, including a time frame for removal, in support of a decision to remove an official from office. Failure to obtain the required vote and concurrence of the governor shall result in the dismissal of the petition.

IV. The governor and council shall set a reasonable rate for the legal fees of parties. However, no official shall be entitled to have any legal fees paid by the state unless the attorney general determines that he or she is the prevailing party.

V. The governor and council shall provide copies of their written findings to counsel for the parties involved, or to the parties themselves, if not represented by counsel.

VI. A party may appeal the order of the governor and council by filing a petition in the superior court within 30 days of the date of the order.

N.H. Const. Pt. 2, art. XVII

The house of representatives shall be the grand inquest of the state; and all impeachments made by them, shall be heard and tried by the senate.

N.H. Const. Pt. 2, art. XXXVIII

The senate shall be a court, with full power and authority to hear, try, and determine, all impeachments made by the house of representatives against any officer or officers of the state, for bribery, corruption, malpractice or maladministration, in office . . .

N.H. Rev. Stat. Ann. § 661:9

IV. Any officer of a county, including the register of probate, may be removed by the county convention for official misconduct. Any removal under this paragraph shall be initiated by petition of a majority of the county commissioners, of the county attorney, or of a superior court judge. No officer of a county may be removed without notice of the allegations supporting the petition for removal and an opportunity to be heard by the county convention.

NEW JERSEY

N.J. Stat. Ann. § 52:17B-110

In addition to any and all methods now provided by law for the removal from office of a county prosecutor, a county prosecutor may be removed from office by the Governor for cause after a public hearing and upon due notice and an opportunity to be heard in his defense.

NEW MEXICO

N.M. Const. art. IV, § 36

All state officers and judges of the district court shall be liable to impeachment for crimes, misdemeanors and malfeasance in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit, or to vote under the laws of this state; but such officer or judge, whether convicted or acquitted shall, nevertheless, be liable to prosecution, trial, judgment, punishment or civil action, according to law. No officer shall exercise any powers or duties of his office after notice of his impeachment is served upon him until he is acquitted.

N.M. Const. art. IV, § 35

The sole power of impeachment shall be vested in the house of representatives, and a concurrence of a majority of all the members elected shall be necessary to the proper exercise thereof. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be under oath or affirmation to do justice according to the law and the evidence. When the governor or lieutenant governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected.

N.M. Stat. Ann. § 36-1-9

Any district attorney may be removed from office according to the provisions of this act on any of the following grounds:

- A. conviction of any felony or of any misdemeanor involving moral turpitude;
- B. failure, neglect or refusal to discharge the duties of the office, or failure, neglect or refusal to discharge any duty devolving upon the officer by virtue of his office;
- C. knowingly demanding or receiving illegal fees as such officer;
- D. failure to account for money coming into his hands as such officer;
- E. gross incompetency or gross negligence in discharging the duties of the office;
- F. any other act or acts, which in the opinion of the court amount to corruption in office or gross immorality rendering the incumbent unfit to fill the office.

N.M. Stat. Ann. § 36-1-10

Charges of any of the causes for removal mentioned in Section 1 hereof may be filed with the supreme court of the state of New Mexico, which is hereby given exclusive original jurisdiction of such matters, upon presentment by the governor, the attorney general or any regularly empaneled grand jury. Any such grand jury presentment shall be immediately certified to the supreme court by the clerk of the district court where such presentment is filed.

NEW YORK

N.Y. Const. art. XIII, § 13

(a) . . . The governor may remove any elective sheriff, county clerk, district attorney or register within the term for which he or she shall have been elected; but before so doing the governor shall give to such officer a copy of the charges against him or her and an opportunity of being heard in his or her defense. In each county a district attorney shall be chosen by the electors once in every three or four years as the legislature shall direct. . . .

(b) Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his or her county of any provision of this article which may come to his or her knowledge, shall be removed from office by the governor, after due notice and an opportunity of being heard in his or her defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this state, within such county, or of receiving bribes by any such person in said county, shall be a charge against the state, and their payment by the state shall be provided for by law.

N.Y. Pub. Off. Law § 34

1. In any proceeding for the removal by the governor of a public officer, he may conduct an investigation into the charges, and may take the evidence as to the truth of the charges at a hearing for such purpose, or he may direct that such investigation or hearing, or both, shall be conducted by a justice of the supreme court of the judicial district, or the county judge of the county, in which the officer proceeded against shall reside, or by a commissioner appointed by the governor, by an appointment, in writing, filed in the office of the secretary of state.

2. The governor may direct the attorney-general or the district attorney of the county in which the officer proceeded against resides, to assist the governor, or the person designated by the governor under the first subdivision of this section, in the conduct of the investigation into the charges, and of the hearing into the truth of the charges. If the hearing provided for in this section shall be conducted by a justice, judge or commissioner, it shall be held at such place in the county in which the officer proceeded against shall reside as the justice, judge or commissioner shall appoint, and at least eight days after written notice of the time and place of such hearing shall have been given to the officer proceeded against.

3. The governor may direct the justice, judge or commissioner to report to him the evidence taken at such hearing, or the evidence and the findings of the material facts deemed by such justice, judge or commissioner to be established. Both in the investigation of the charges and at the hearing into the truth of the charges, the governor or the person designated by him under the first subdivision of this section may require witnesses to attend before him, and may also require the production of any books, papers, or other documents, deemed by him to be material, and shall issue subpoenas for such witnesses for appearance at the hearing as may be requested by the officer proceeded against.

4. At the hearing provided for in this section, the officer proceeded against and his counsel shall be permitted to attend, but such officer or his counsel shall have no right to be present at the investigation provided for unless the governor or the person designated by him to conduct such investigation so directs. No evidence taken in such investigation shall form the basis of any report to the governor by the person designated by him under subdivision one of this section, or the basis of any determination by the governor, unless such evidence is presented at the hearing provided for in this section.

5. The person designated under subdivision one of this section, or the governor, where no person is so designated, is authorized to employ counsel in any case where the attorney-general or district attorney has not been directed to assist the governor or his designee, as provided in subdivision two of this section, and to employ such personnel as may be necessary to assist him in the performance of his duties under this section.

N.Y. Const. art. VI, § 24

The assembly shall have the power of impeachment by a vote of a majority of all the members elected thereto. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or the major part of them, and the judges of the court of appeals, or the major part of them. . . . Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any public office of honor, trust, or profit under this state; but the party impeached shall be liable to indictment and punishment according to law.

N.Y. Jud. Law § 422

The defendant cannot be convicted on an impeachment, without the concurrence of two-thirds of the members present during the trial; and if such two-thirds do not concur in a conviction, the defendant must be declared acquitted.

N.Y. Jud. Law § 499-f

1. The commission shall receive, initiate, investigate and hear complaints with respect to the conduct or performance of official duties of any prosecutor; and may make a recommendation to the governor that a prosecutor be removed from office for cause, for, including, but not limited to, misconduct in office, as evidenced by his or her departure from his or her obligations under appropriate statute, case law, and/or New York Rules of Professional Conduct, 22 NYCRR 1200, or any subset thereof or successor thereto, including but not limited to Rule 3.8 (Special Responsibilities of Prosecutors and Other Government Lawyers), persistent failure to perform his or her duties, conduct prejudicial to the administration of justice, or that a prosecutor be retired for mental or physical disability preventing the proper performance of his or her prosecutorial duties. A complaint shall be in writing and signed by the complainant and, if directed by the commission, shall be verified. Upon receipt of a complaint (a) the commission shall conduct an investigation of the complaint; or (b) the commission may dismiss the complaint if it determines that the complaint on its face lacks merit. If the complaint is dismissed, the commission shall so notify the complainant. If the commission shall have notified the prosecutor of the complaint, the commission shall also notify the prosecutor of such dismissal. Pursuant to paragraph a of subdivision four of section ninety of this chapter, any person being an attorney and counselor-at-law who shall be convicted of a felony as defined in

paragraph e of subdivision four of section ninety of this chapter, shall upon such conviction, cease to be any attorney and counselor-at-law, or to be competent to practice law as such.

2. The commission may, on its own motion, initiate an investigation of a prosecutor with respect to his or her conduct or the performance of his or her official duties. Prior to initiating any such investigation, the commission shall file as part of its record a written complaint, signed by the administrator of the commission, which complaint shall serve as the basis for such investigation.

NORTH CAROLINA

N.C. Gen. Stat. Ann. § 7A-66

The following are grounds for suspension of a district attorney or for his removal from office:

- (1) Mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent;
- (2) Willful misconduct in office;
- (3) Willful and persistent failure to perform his duties;
- (4) Habitual intemperance;
- (5) Conviction of a crime involving moral turpitude;
- (6) Conduct prejudicial to the administration of justice which brings the office into disrepute;
or
- (7) Knowingly authorizing or permitting an assistant district attorney to commit any act constituting grounds for removal, as defined in subdivisions (1) through (6) hereof.

A proceeding to suspend or remove a district attorney is commenced by filing with the clerk of superior court of the county where the district attorney resides a sworn affidavit charging the district attorney with one or more grounds for removal. The clerk shall immediately bring the matter to the attention of the senior regular resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located who shall within 30 days either review and act on the charges or refer them for review and action within 30 days to another superior court judge residing in or regularly holding the courts of that district or set of districts. If the superior court judge upon review finds that the charges if true constitute grounds for suspension, and finds probable cause for believing that the charges are true, he may enter an order suspending the district attorney from performing the duties of his office until a final determination of the charges on the merits. During the suspension the salary of the district attorney continues. If the superior court judge finds that the charges if true do not constitute grounds for suspension or finds that no probable cause exists for believing that the charges are true, he shall dismiss the proceeding.

If a hearing, with or without suspension, is ordered, the district attorney should receive immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set for hearing not less than 10 days nor more than 30 days thereafter. The matter shall be set

for hearing before the judge who originally examined the charges or before another regular superior court judge resident in or regularly holding the courts of that district or set of districts. The hearing shall be open to the public. All testimony shall be recorded. At the hearing the superior court judge shall hear evidence and make findings of fact and conclusions of law and if he finds that grounds for removal exist, he shall enter an order permanently removing the district attorney from office, and terminating his salary. If he finds that no grounds exist, he shall terminate the suspension, if any.

The district attorney may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the district attorney shall not perform any of the duties of his office. If, upon final determination, he is ordered reinstated either by the appellate division or by the superior court upon remand his salary shall be restored from the date of the original order of removal.

NORTH DAKOTA

N.D. Cent. Code Ann. § 44-10-02

An accusation in writing against any district, county, township, city, or municipal officer, school board member, or any state officer not liable to impeachment, except a representative in Congress and a member of the legislative assembly, for misconduct, malfeasance, crime, or misdemeanor in office, or for habitual drunkenness or gross incompetency, may be presented by the grand jury to the district court of the county in or for which the officer accused is elected or appointed. When the proceedings are against a state officer not liable to impeachment, the accusation may be presented by the grand jury of the county in which the officer resides or in which the officer has an office for the transaction of official business.

N.D. Cent. Code Ann. § 44-10-15

The proceedings provided for in this chapter may be had on like grounds for the removal of a state's attorney, except that the accusation must be delivered by the judge to the clerk of the district court, and by the clerk to such person as may be appointed by the judge to act as prosecuting officer in the matter. The prosecuting officer is authorized and required to conduct the proceedings.

N.D. Cent. Code Ann. § 44-09-01

The governor and other state and judicial officers of the state, except municipal judges, are subject to impeachment, and may be impeached for habitual drunkenness, crimes, corrupt conduct, malfeasance, or misdemeanor in office. The articles of impeachment may contain charges and specifications, or either, predicated upon or on account of any crime, corrupt conduct, malfeasance, or misdemeanor in office committed by the accused during any previous term of the same office.

N.D. Cent. Code Ann. § 44-09-02

The sole power of impeachment is vested in the house of representatives. A concurrence of a majority of all members is necessary to the exercise thereof. All impeachments must be tried by the senate sitting for that purpose, and the senators must be upon oath or affirmation to do justice according to law and the evidence. When the governor or lieutenant governor is on trial, the chief justice of the supreme court shall preside, or if the chief justice is disqualified or unable to preside, then some other judge of said court must be selected by the senate. No person may be convicted without the concurrence of two-thirds of the senators elected.

OHIO

Ohio Rev. Code Ann. § 3.07

Any person holding office in this state, or in any municipal corporation, county, or subdivision thereof, coming within the official classification in Section 38 of Article II, Ohio Constitution, who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed upon him by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. Upon complaint and hearing in the manner provided for in sections 3.07 to 3.10, inclusive, of the Revised Code, such person shall have judgment of forfeiture of said office with all its emoluments entered thereon against him, creating thereby in said office a vacancy to be filled as prescribed by law. The proceedings provided for in such sections are in addition to impeachment and other methods of removal authorized by law, and such sections do not divest the governor or any other authority of the jurisdiction given in removal proceedings.

Ohio Rev. Code Ann. § 3.08

The removal proceedings filed in the court of common pleas shall be tried by a judge unless a jury trial is demanded in writing by the officer against whom the complaint has been filed. If a jury is demanded, it shall be composed of twelve persons who satisfy the qualifications of a juror specified in section 2313.17 of the Revised Code. If nine or more persons of that jury find one or more of the charges in the complaint are true, such jury shall return a finding for the removal of the officer, which finding shall be filed with the clerk of the court and be made a matter of public record. If less than nine persons of that jury find that the charges on the complaint are true, the jury shall return a finding that the complaint be dismissed. The proceedings had by a judge upon such removal shall be matters of public record and a full detailed statement of the reasons for such removal shall be filed with the clerk of the court and shall be made a matter of public record.

Ohio Rev. Code Ann. § 309.05

On complaint, in writing, signed by one or more taxpayers, containing distinct charges and specifications of wanton and willful neglect of duty or gross misconduct in office by the prosecuting attorney, supported by affidavit and filed in the court of common pleas, the court

shall assign the complaint for hearing and shall cause reasonable notice of the hearing to be given to the prosecuting attorney of the time fixed by the court for the hearing. At the time so fixed, or to which the court adjourns the hearing, the court shall hear the evidence adduced by the complainants and the prosecuting attorney. The court may consider motions for judgment on the pleadings made pursuant to Civil Rule 12, motions to dismiss made pursuant to Civil Rule 41, and motions for summary judgment made pursuant to Civil Rule 56 that are filed before the hearing. If it appears that the prosecuting attorney has willfully and wantonly neglected to perform the prosecuting attorney's duties, or has been guilty of gross misconduct in office, the court shall remove the prosecuting attorney from office and declare the office vacant. Otherwise the complaint shall be dismissed, and the court shall render judgment against the losing party for costs.

If a complaint to remove a prosecuting attorney is dismissed because the complainant or complainants failed to file an affidavit in support of the complaint, the dismissal shall be without prejudice.

Ohio Const. art. II, § 23

The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted, without the concurrence of two-thirds of the senators.

Ohio Const. art. II, § 24

The governor, judges, and all state officers, may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this State. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law.

OKLAHOMA

Okla. Stat. Ann. tit. 22, § 1181

Any officer not subject to impeachment elected or appointed to any state, county, township, city, town or other office under the laws of the state may, in the manner provided in this article, be removed from office for any of the following causes:

First. Habitual or willful neglect of duty, which, for a state officer, shall include, but not be limited to, knowingly giving false testimony to a committee of either house of the Legislature, knowingly engaging in operations beyond the constitutional or statutory authority delegated to the agency that the officer is employed by or serves, or repeatedly refusing to provide information to a committee, either house or a member of the

Legislature in a timely manner. For the purposes of this section, “timely manner” means no more than fifteen (15) business days from the date the request for information was received by the agency, unless extended by written agreement.

Second. Gross partiality in office.

Third. Oppression in office.

Fourth. Corruption in office.

Fifth. Extortion or willful overcharge of fees in office.

Sixth. Willful maladministration.

Seventh. Habitual drunkenness.

Eighth. Failure to produce and account for all public funds and property in his or her hands, at any settlement or inspection authorized or required by law.

Okla. Stat. Ann. tit. 22, § 1182

An accusation in writing, charging such officer with any of the causes for removal mentioned in the first preceding section¹ may be presented by the grand jury to the district court of the county in or for which the officer is elected or appointed: Provided, that in the case of a state officer, such accusation may be presented by the grand jury of the county in which such officer resides, or in which he has his place of office for the usual transaction of official business.

Okla. Stat. Ann. tit. 22, § 1193

In case an accusation is presented against the district attorney, the same shall be delivered by the judge to the clerk of his court, and by the clerk to such person as the judge shall appoint to act as prosecuting officer in the matter, and the person so appointed shall be authorized and required to conduct the proceedings.

OREGON

Or. Const. art. VII (Original), § 19

Public Officers shall not be impeached, but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offences (sic), and judgment may be given of dismissal from Office, and such further punishment as may have been prescribed by law.

Or. Const. art. VII, (Original), § 20

The Governor (sic) may remove from Office a Judge of the Supreme Court, or Prosecuting Attorney upon the Joint resolution of the Legislative Assembly, in which Two Thirds of the members elected to each house shall concur, for incompetency, Corruption, malfeasance, or delinquency in office, or other sufficient cause stated in such resolution.

PENNSYLVANIA

Pa. Const. art. VI, § 6

The Governor and all other civil officers shall be liable to impeachment for any misbehavior in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under this Commonwealth. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

Pa. Const. art. VI, § 4

The House of Representatives shall have the sole power of impeachment.

Pa. Const. art. VI, § 5

All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

Pa. Const. art. VI, § 7

All civil officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed civil officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they shall have been appointed. All civil officers elected by the people, except the Governor, the Lieutenant Governor, members of the General Assembly and judges of the courts of record, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate.

RHODE ISLAND

36 R.I. Gen. Laws § 36-14-14

(a) The commission is hereby empowered to remove from office any state or municipal elected official or any state or municipal appointed official not subject to impeachment in accordance with the provisions of subsections (b) through (d) of this section.

(b) Any state or municipal elected official and any state or municipal appointed official not subject to impeachment may be removed from office if:

- (1) The commission has found, after an adjudicative hearing conducted in accordance with § 36-14-13, that the official has been guilty of a serious, knowing, and willful violation of § 36-14-5(c), 36-14-5(d), or 36-14-5(g); and
- (2) The commission determines that the violation was committed by the violator either with (i) fraudulent intent to secure the unjust enrichment of him or herself or another person or (ii) malicious intent to inflict pecuniary or other substantial injury upon another person.
- (c) If it determines that such a violation has been committed, it shall conduct a hearing at which the executive director of the commission or his or her designee and the respondent or his or her counsel shall be permitted to pursue additional evidence and arguments relevant to (i) the presence or absence of the specific intent required by subsection (b)(2) of this section as a prerequisite to removal of an official from office, and (ii) the presence or absence of aggravating or mitigating circumstances of which the commission should be aware in rendering its final decision.
- (d) The removal power conferred by this section may be exercised only by the affirmative vote of two-thirds ($\frac{2}{3}$) of the membership of the commission eligible to participate, but in no case fewer than five (5) affirmative votes.

36 R.I. Gen. Laws Ann. § 36-14-5

- (c) No person subject to this code of ethics shall willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or employment or use any information for the purpose of pecuniary gain.
- (d) No person subject to this code of ethics shall use in any way his or her public office or confidential information received through his or her holding any public office to obtain financial gain, other than that provided by law, for him or herself or any person within his or her family, any business associate, or any business by which the person is employed or which the person represents.
- (g) No person subject to this code of ethics, or spouse (if not estranged), dependent child, or business associate of the person, or any business by which the person is employed or which the person represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the person would be influenced thereby.

SOUTH CAROLINA

S.C. Const. Ann. art. XV, § 3

For any willful neglect of duty, or other reasonable cause, which shall not be sufficient ground of impeachment, the Governor shall remove any executive or judicial officer on the address of two

thirds of each house of the General Assembly: Provided, that the cause or causes for which said removal may be required shall be stated at length in such address, and entered on the Journals of each house: And, provided, further, that the officer intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense, or by his counsel, or by both, before any vote for such address; and in all cases the vote shall be taken by yeas and nays, and be entered on the Journal of each house respectively.

SOUTH DAKOTA

S.D. Const. art. XVI, § 3

The Governor and other state and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused whether convicted or acquitted shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

S.D. Const. art. XVI, § 1

The house of representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

S.D. Codified Laws § 3-17-3

The Governor shall have power, after notice and hearing, to remove from office any state's attorney, sheriff, or police officer, or any deputy or assistant state's attorney, or deputy sheriff who shall willfully fail, neglect, or refuse to perform any of the duties imposed upon him by, or to enforce any of the provisions of law relating to intoxicating liquors, or who shall willfully fail, neglect, or refuse to perform any duties imposed upon them by law, or who shall be guilty of intoxication or drunkenness, or who shall be guilty of the violation of any law, or who shall assist or connive in the violation of any law, or who shall be grossly incompetent to perform the duties of his office.

TENNESSEE

Tenn. Const. art. V, § 1

The House of Representatives shall have the sole power of impeachment.

Tenn. Const. art. V, § 2

All impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation, and the Chief Justice of the Supreme Court, or if he be on trial, the Senior Associate Judge, shall preside over them. No person shall be convicted without the concurrence of two-thirds of the Senators sworn to try the officer impeached.

Tenn. Const. art. V, § 4

The Governor, Judges of the Supreme Court, Judges of Inferior Courts, Chancellors, Attorneys for the State, Treasurer, Comptroller and Secretary of State, shall be liable to impeachment, whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law. The Legislature now has, and shall continue to have, power to relieve from the penalties imposed, any person disqualified from holding office by the judgment of a Court of Impeachment.

Tenn. Const. art. VI, § 6

Judges and Attorneys for the State may be removed from office by a concurrent vote of both Houses of the General Assembly, each House voting separately; but two-thirds of the members to which each House may be entitled must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the Judge or Attorney for the State together with the cause or causes of removal, shall be entered on the Journals of each House respectively. The Judge or Attorney for the State, against whom the Legislature may be about to proceed, shall receive notice thereof accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either House of the General Assembly shall act thereupon.

Tenn. Code Ann. § 8-47-101

Every person holding any office of trust or profit, under and by virtue of any of the laws of the state, either state, county, or municipal, except such officers as are by the constitution removable only and exclusively by methods other than those provided in this chapter, who shall knowingly or willfully commit misconduct in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude, shall forfeit such office and shall be ousted from such office in the manner hereinafter provided.

Tenn. Code Ann. § 8-47-102

The attorney general and reporter has the power, on the attorney general and reporter's own initiative, and without any complaint having been made to the attorney general and reporter or request made of the attorney general and reporter, to institute proceedings in ouster against any and all state, county, and municipal officers, under the provisions of this chapter, and the district

attorneys general, county attorneys, and city attorneys, within their respective jurisdictions, may institute such actions, without complaint being made to them or request made of them, as they are authorized to institute upon request made of them or complaint made to them.

Tenn. Code Ann. § 8-47-108

It is also the duty of the attorney general and reporter, in the case of state officers, and of the district attorney general and the county attorney, if there is one in the county, in the case of county officers, and of the city attorney, or the district attorney general, in case of municipal officers, to file such petition or complaint, upon being directed or requested in writing so to do by the governor.

Tenn. Code Ann. § 8-47-109

The governor shall have power, and it shall be the governor's duty, whenever the governor has knowledge that reasonable grounds exist for the proceedings authorized by this chapter against any state, county, or municipal officer, to direct the attorney general and reporter, or district attorney general, or county attorney, or city attorney, as the case may be, to institute and prosecute the same against the offending officer.

TEXAS

Tex. Loc. Gov't Code Ann. § 87.011

In this subchapter:

- (1) "District attorney" includes a criminal district attorney.
- (2) "Incompetency" means:
 - (A) gross ignorance of official duties;
 - (B) gross carelessness in the discharge of those duties; or
 - (C) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.
- (3) "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes:
 - (A) an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law;
 - (B) a prosecuting attorney's adoption or enforcement of a policy of refusing to prosecute a class or type of criminal offense under state law or instructing law enforcement to refuse to arrest individuals suspected of committing a class or type of offense under state law, except a policy adopted:

- (i) in compliance with state law or an injunction, judgment, or other court order;
- (ii) in response to a reasonable evidentiary impediment to prosecution; or
- (iii) to provide for diversion or similar conditional dismissals of cases when permissible under state law; or

(C) permitting an attorney who is employed by or otherwise under the direction or control of the prosecuting attorney to refuse to prosecute a class or type of criminal offense under state law or instruct law enforcement to refuse to arrest individuals suspected of committing a class or type of offense under state law for any reason other than a reason described by Paragraph (B)(i), (ii), or (iii).

(4) “Policy” means an instruction or directive expressed in any manner.

(5) “Prosecuting attorney” means a district attorney or a county attorney with criminal jurisdiction.

Tex. Loc. Gov't Code Ann. § 87.013

a) An officer may be removed for:

- (1) incompetency;
- (2) official misconduct; or
- (3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

UTAH

Utah Const. art. VI, § 19

The Governor and other State and Judicial officers shall be liable to impeachment for high crimes, misdemeanors, or malfeasance in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, and punishment according to law.

Utah Const. art. VI, § 17

(1) The House of Representatives shall have the sole power of impeachment, but in order to impeach, two-thirds of all the members elected must vote therefor.

(2) If not already convened in an annual general session, the House of Representatives may convene for the purpose of impeachment if a poll of members conducted by the Speaker of the House indicates that two-thirds of the members of the House of Representatives are in favor of convening.

Utah Code Ann. § 77-6-1

All officers of any city, county, or other political subdivision of this state not liable to impeachment shall be subject to removal as provided in this chapter for high crimes and misdemeanors or malfeasance in office.

VERMONT

Vt. Const. ch. II, § 58

Every officer of State, whether judicial or executive, shall be liable to be impeached by the House of Representatives, either when in office or after resignation or removal for maladministration.

The Senate shall have the sole power of trying and deciding upon all impeachments. When sitting for that purpose, they shall be on oath, or affirmation, and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, or profit, or trust, under this State. But the person convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

VIRGINIA

Va. Code Ann. § 24.2-233

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of a clear, ministerial duty of the office, misuse of the office, or incompetence in the performance of the duties of the office when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance;

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a “hate crime” as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to 10 percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.

Va. Code Ann. § 24.2-230

This article shall apply to all elected or appointed Commonwealth, constitutional, and local officers, except officers for whose removal the Constitution of Virginia specifically provides.

However, an appointed officer shall be removed from office only by the person or authority who appointed him unless he is sentenced for a crime as provided for in § 24.2-231 or is determined to be “mentally incompetent” as provided for in § 24.2-232. This exception shall not apply to an officer who is (i) appointed to fill a vacancy in an elective office or (ii) appointed to an office for a term established by law and the appointing person or authority is not given the unqualified power of removal.

This article shall be applicable to members of local electoral boards and general registrars, but shall not be applicable to deputy registrars who may be removed from office by the general registrar pursuant to § 24.2-112 or to officers of election who may be removed from office by the local electoral board pursuant to § 24.2-109.

WASHINGTON

Wash. Const. art. IV, § 9

Any judge of any court of record, the attorney general, or any prosecuting attorney may be removed from office by joint resolution of the legislature, in which three-fourths of the members elected to each house shall concur, for incompetency, corruption, malfeasance, or delinquency in office, or other sufficient cause stated in such resolution. But no removal shall be made unless the officer complained of shall have been served with a copy of the charges against him as the ground of removal, and shall have an opportunity of being heard in his defense. Such resolution shall be entered at length on the journal of both houses and on the question of removal the ayes and nays shall also be entered on the journal.

WEST VIRGINIA

W. Va. Code Ann. § 6-6-7

(a) Any person holding any county, school district or municipal office, including the office of a member of a board of education and the office of magistrate, the term or tenure of which office is fixed by law, whether the office be elective or appointive, except judges of the circuit courts, may be removed from such office in the manner provided in this section for official misconduct, neglect of duty, incompetence or for any of the causes or on any of the grounds provided by any other statute.

...

Such three-judge court shall, without a jury, hear the charges, any motions filed by either party and all evidence offered in support thereof or in opposition thereto, and upon satisfactory proof of the charges by clear and convincing evidence, shall remove any such officer from office and place the records, papers and property of his office in the possession of some other officer or person for safekeeping or in the possession of the person appointed as hereinafter provided to fill the office temporarily. Any final order either removing or refusing to remove any such person from office shall contain such findings of fact and conclusions of law as the three-judge court shall deem sufficient to support its decision of all issues presented to it in the matter.

W. Va. Const. art. IV, § 9

Any officer of the state may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachments and no person shall be convicted without the concurrence of two thirds of the members elected thereto. When sitting as a court of impeachment, the president of the supreme court of appeals, or, if from any cause it be improper for him to act, then any other judge of that

court, to be designated by it, shall preside; and the senators shall be on oath or affirmation, to do justice according to law and evidence. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under the state; but the party convicted shall be liable to indictment, trial judgment, and punishment according to law. The Senate may sit during the recess of the Legislature, for the trial of impeachments.

W. Va. Code Ann. § 6-6-5

Any state officer holding any elective office (except the governor, any judge, or a member of the Legislature of this state) may be removed from office, by the governor, in the manner provided in the following section: (a) When disqualified from holding the office under any provision of the constitution of this state, or any law now in force, or which may hereafter be enacted, whether such disqualification arose before or after his induction into office; (b) for official misconduct, malfeasance in office, incompetence, neglect of duty, or gross immorality.

WISCONSIN

Wis. Const. art. VII, § 1

Section 1. The court for the trial of impeachments shall be composed of the senate. The assembly shall have the power of impeaching all civil officers of this state for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office, after he shall have been impeached, until his acquittal. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust under the state; but the party impeached shall be liable to indictment, trial and punishment according to law.

Wis. Stat. Ann. § 17.06

(3) A district attorney may be removed by the governor, for cause.

WYOMING

Wyo. Stat. Ann. § 18-3-902

(a) Whenever it appears to the governor on the verified complaint of qualified electors or the board of county commissioners of the county that any county officer is guilty of misconduct or malfeasance in office he may direct the attorney general to commence and prosecute an action in

the district court of the county in which the officer is an official asking for the removal of the officer. The action shall be commenced by the filing of a verified petition in the name of the state of Wyoming signed by the attorney general setting forth the facts constituting the misconduct or malfeasance in office.

...

(c) The action shall be tried in a summary manner by the district court with or without a jury not less than five (5) days nor more than thirty (30) days after answer day. At the trial all questions touching the sufficiency or certainty of the allegations of the petition or answer shall be heard and determined and amendments which are not inconsistent with the original pleadings shall be authorized to be made at once and shall not delay the trial. If the court finds the defendant is guilty of misconduct or malfeasance in office as charged in the petition, a judgment shall be entered removing the defendant from office and taxing against him the costs of the action.

...

(f) As used in this section, “misconduct or malfeasance” includes, but is not limited to, instances when:

(i) The officer absents himself from his office for an aggregate of sixty (60) days in any three (3) month period unless such absence is caused by illness or other disability;

(ii) The officer is absent from his office for more than ninety (90) days because of illness or other disability and the illness or disability will probably not terminate during the unexpired portion of the officer's term of office.

Wyo. Stat. Ann. § 18-3-906

Every sheriff and district attorney shall prima facie be guilty of malfeasance in office and subject to removal where open and continuous violations of any law occur in the county for which such officers are employed. Every county assessor is prima facie guilty of malfeasance in office and subject to removal where the county assessor has failed to carry out and follow the legal directives and legal orders of the state board of equalization relative to assessment of property.

<https://www.vera.org/downloads/publications/the-criminalization-of-poverty-in-kentucky-report.pdf>

https://www.nber.org/system/files/working_papers/w28600/w28600.pdf

<https://www.vera.org/news/what-happened-when-boston-stopped-prosecuting-nonviolent-crimes>