



County Attorneys

Salary Scale, Classification and Compensation Report to

Interim Joint Appropriations and Revenue Committee

August 1, 2020

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Executive Summary

The 2020 Executive Branch Budget Bill, House Bill 352, directs the Prosecutors Advisory Council (PAC) to develop a proposed salary scale for the employees of the Unified Prosecutorial System to the Interim Joint Committee on Appropriations and Revenue by August 1, 2020.

At the first Prosecutors Advisory Council (PAC) meeting held on April 17, 2020, immediately following the passage of HB 352, the Council appointed two subcommittees to address the mandate. PAC staff was requested to assist both subcommittees and provide data and administrative support. The subcommittees were tasked with providing a report with recommendations to the Council for approval prior to the August 1, 2020 deadline.

The Council appointed a *County Attorney salary subcommittee* and a *Commonwealth's Attorney salary subcommittee*, recognizing that although the prosecutorial system is "unified" with regard to budget and mission, the Commonwealth's and County Attorneys operate independently and have unique issues related to the structure necessitated by their offices and budgets. A PAC Board member chaired each committee and recruited representative Commonwealth's and County Attorney members to offer input. Representatives were from varied office sizes and regions. Both subcommittees held regular weekly meetings beginning April 23, 2020.

Members of the Commonwealth's Attorneys Subcommittee were:

Rob Sanders, Commonwealth's Attorney 16th Judicial Circuit

Shelly Miller, Commonwealth's Attorney 11th Judicial Circuit

Courtney Baxter, Commonwealth's Attorney 12th Judicial Circuit

Lou Anna Red Corn, Commonwealth's Attorney 22nd Judicial Circuit

Tom Wine, Commonwealth's Attorney 30th Judicial Circuit

Members of the County Attorneys Subcommittee were:

Hallye Arterburn, Allen County Attorney
Jenny Oldham, Hardin County Attorney
Steve Gold, Henderson County Attorney
Mike O'Connell, Jefferson County Attorney
Stacy Tapke, Kenton County Attorney

With the assistance of PAC staff, the subcommittees gathered information and adopted recommendations and clarification as to the following:

- 1) Revision of current classifications
- 2) Development of a pay scale for ALL employee classifications within the Unified Prosecutorial System (UPS)
- 3) Definition of classification/pay scale criteria
- 4) Definition and determination of criteria for statuses: "Part-time" and "Quarter-time" positions
- 5) Determination of impact on the UPS budget and PAC Staff

Both subcommittees held regular weekly meetings beginning April 23, 2020, and it quickly became clear that the Unified Prosecutorial System is unique within state government. The prosecutorial system itself is as unique as the challenges that are facing individual County and Commonwealth's Attorney offices. The issues vary depending on size, region, circuit, local economies, availability of attorneys and other factors. This document will identify the current UPS structure and outline issues that impact any proposed changes to the current system.

Unified Prosecutorial System – Background and Creation of the UPS System

In response to the ratification of Kentucky's Judicial Article in 1975, the 1976 Extraordinary Session of the General Assembly created the Unified Prosecutorial System. KRS 15.700 declares that it shall be the policy of the Commonwealth to encourage cooperation among law enforcement officers and to provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the Commonwealth, in order to maintain uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the Commonwealth.

The Unified Prosecutorial System (UPS) is administered by the Prosecutors Advisory Council (PAC) with the Attorney General serving as chairperson. The UPS includes fifty-seven (57) Commonwealth's Attorneys and one hundred twenty (120) County Attorney offices which employ a cumulative 1,150 people responsible for prosecuting criminal cases throughout Kentucky's circuit and district courts. Each year PAC sets individual office budgets for all Commonwealth's and County Attorney offices from the total budget amount allocated by the General Assembly. Each budget allocation includes the number of staff positions allowed to be funded by PAC. Personnel costs (salaries and benefits) account for ninety-five percent (95%) of the entire statewide PAC budget. The PAC budget also allocates funding for PAC support staff who assist with the administrative tasks necessary to support County and Commonwealth's Attorney offices. Council approval is required for any additional funding or additional positions within an individual Commonwealth's or County Attorney office.

Unified Prosecutorial System – Personnel

The *Merit System* in Kentucky was established by KRS 18A.010 and provides that the state system of personnel administration is based on merit principles and scientific methods and governs the recruitment, examination, appointment, promotion transfer, lay-off, removal, discipline and welfare of “classified” employees.

The UPS system and its employees are **not** governed by 18A and UPS employees are not “classified”, and, therefore, referred to as ***unclassified*** employees. This distinction is relevant and must be considered when comparing “non-merit” employees to UPS employees. Similar to “non-merit” employees, UPS employees do not enjoy the protections of the merit system employee but in contrast to non-merit employees, they cannot accumulate annual and compensatory time which can be paid out upon retirement nor is it common to accumulate sick time which can be used in the calculation of retirement benefits. The leave time of the UPS employee is at the discretion of the elected official so they are not guaranteed the same holidays and other forms of leave, excluding federal leave such as FMLA or military leave.

UPS employees are “at will” employees also referred to as “terminable at will.” Generally, employees working at will can be fired at any time and for any reason, or for no reason at all (exceptions exist if terminated for discriminatory reason).

Distinctions Between Merit System and Unified Prosecutorial System

Guaranteed to 18 A employees	KRS 18A Merit Employees	UPS Employees	Notes
Protections against termination under KRS Ch. 18A	√	NO	Terminable at will Newly elected official may replace staff at will
Sick leave	√	Discretion of official	
Vacation leave	√	Discretion of official	
Accrual of time within KHRIS system	√	Discretion of official	No ability to make lump sum payouts from UPS budget
Holiday leave	√	Discretion of official	
Transfer of leave time if moves to another state agency	√	Limited Circumstances	KAR 101:3
Benefits (health, life insurance)	√	√	If works at least 100 hours per month
6 months' probation	√	NO	
Member of KERS (retirement system)	√	√	If works at least 100 hours per month
Work week 37.5 hours per week	√	Discretion of official	
Full time/part time status as defined in KRS 61.510 applies	√	NO	
KY Personnel Board oversight	√	NO	Other than sanctioning use of positions used by UPS

At Will Employees

All personnel positions within the Commonwealth's and County Attorney offices shall be filled by the elected official. **All employees hired by County and Commonwealth's Attorneys serve AT WILL and are NOT covered under the Kentucky classified service/merit system.**¹ Employees serve at the discretion of the elected official and are not provided employment protections that the Commonwealth of Kentucky Merit System employees enjoy.

Statutory Limitations on Attorneys employed as Assistant Commonwealth's and County Attorneys:

Assistant Commonwealth's Attorneys shall be attorneys licensed to practice in the Commonwealth and, **if employed full-time**, shall **not** be allowed to engage in the private practice of law. **(KRS 15.760(3))**² (emphasis added)

Assistant County Attorneys shall reside in the county in which the County Attorney is elected, or within thirty (30) miles of the county line, or in a contiguous county and shall be attorneys licensed to practice in the Commonwealth. **(KRS 69.300)**³ (emphasis added)

Current Statuses: Full-Time and Part-time

Each full-time and part-time employee whose status requires them to work an annual average of 100 hours per month or more will have retirement contributions paid on the salary and will be a member of the KERS system. These employees are also eligible for a state supplemented single health and life insurance policy. Employees who occupy positions which require less than an annual average of 100 hours per month are not

¹ Prosecutors Advisory Council Administrative Manual

² Other than Constitutional and statutory officers and some AOC positions, there is no prohibition against the private practice of law *except for* Assistant Commonwealth's Attorneys. DPA assistant public advocates have no such restriction.

³ Residency requirement for assistant county attorneys

eligible to participate in the KERS system and are not eligible for state supplemented health and life insurance policy.⁴

PAC has operated by using the following established statuses (used since 1976):

Full-time status is defined by either 37.5 hours per week or 40 hours per week at the discretion of the elected official.

Part-time positions within the Unified Prosecutorial System are classified as positions where the employee is required to work an average OVER 100 hours per month on an annual basis – these positions qualify for Retirement and Health/Life Insurance benefits. A position classified as part-time within the Unified Prosecutorial System may work up to full-time hours. Within the County Attorney system this status is used primarily as many County Attorney employees perform duties for both criminal prosecution as well as other responsibilities of the County Attorney including but not limited to duties related to Fiscal Court or Child Support collection. The part-time status has traditionally been used for 1) truly part-time employees who work approximately 3-4 days per week; 2) to denote that less than 100% of the employee's time is devoted to criminal prosecution or 3) in the instance of *shared* assistants, as a method to designate to which office the shared employee devotes more of his/her time. Shared employees working the majority of hours in one office are "part-time" in that office and "quarter-time" in the other. See discussion below regarding shared employees.

Quarter-time positions within the Unified Prosecutorial System are classified as positions where the employee is required to work an *average* of UNDER 100 hours per month on an *annual basis* – these positions DO NOT qualify for Retirement and Health/Life Insurance benefits. Employees classified as "Quarter-time" must not exceed the 100 hour per month average limit UNLESS they are serving as a shared assistant. It is important to note that the status "quarter-time" does **not** mean the employee works 25% of the time. The origins of the terminology have not been documented. Many "quarter-time" employees work nearly 100 hours per month each month. Other quarter-time employees

⁴ Prosecutors Advisory Council Administrative Manual. Includes requirements for KERS eligibility detailed in KRS 61.510

are working on an as needed basis to cover court or pick up duties when the elected official is unavailable.

Note that the statutory definitions under KRS 61.510 (21), the *full-time* and *part-time* statuses within the Unified Prosecutorial System are considered “full-time” under the statutory definition-- as they both encompass positions where the hours worked are an average of *100 or more*. This situation is necessary to provide attorneys to cover court or pickup duties when the elected official is unavailable. *Quarter-time* status positions meet the definition of “part-time” under KRS 61.510 (21). Because of the confusing nature of this discrepancy, the subcommittee recommendations include clarification.

Shared Employees

Pursuant to KRS 15.725(3), the Commonwealth’s Attorney and County Attorney in a judicial circuit shall cooperate in the enforcement of criminal and penal laws and shall assist each other when necessary within their respective courts. Each Commonwealth’s Attorney and County Attorney may enter into agreements to share or redistribute prosecutorial duties in the Circuit and District Court.

Individuals classified as full-time employees cannot be shared with other Commonwealth’s or County Attorneys, therefore the assistants in these positions are classified as “part-time” in one office and “quarter-time” in the other. Employer’s share of the retirement contribution is required to be paid on the salaries in *both* positions. These employees typically work at least the equivalent of full-time when the hours of the positions are combined.

Non-State Funded Employees

Due to historic budget limitations, the employment of “non-state” funded prosecutorial employees through other funds is common. Unless funds are submitted to PAC staff to administer, these employees are not part of the Unified Prosecutorial System payroll and are not counted in the number of staff per office. With regards to County Attorney offices, many prosecutorial employees are paid from other funds, if available, due to inadequate funding through the Unified Prosecutorial System general fund budget.

Holidays Annual, Sick Leave and Accrual of time

According to the Kentucky Personnel website *personnel.ky.gov*, merit employees are eligible for a variety of leave including inclement weather, annual leave, blood donation leave, court leave, sick leave, voting leave. Paid holiday schedules are approved annually, and merit employees are paid to be off on these days.

Annual leave for merit employees is awarded based on months of service and can be carried forward from one calendar year to the next⁵. In contrast, any type of leave for UPS employees is at the discretion of the elected official. Even though a uniform leave schedule does not exist for prosecutors' offices, each office is provided the state holiday schedule each year to use as a guide when preparing their own holiday (time off) schedule.

Neither the Kentucky Revised Statutes (KRS) nor Kentucky Administrative Regulations (KAR) provide leave guidelines for the employees of the Unified Prosecutorial System. The Merit System and the benefits and protections are provided in a detailed in a 58-page employee handbook. While most prosecutors' offices have developed leave policies, they are not mandated by statute or uniform in application.

Unused Leave Time Accrual

Current and historic budget funding does not provide for compensation of employees for *unused* leave upon termination of employment. Employees of the Unified Prosecutorial System do NOT accumulate annual or compensatory leave time within the state personnel (KHRIS) system. There is no leave balance transfer when an employee of the UPS transfers to another position within state government. Similarly, if an employee transfers in to the UPS from another state agency, the annual, sick and compensatory time remain unchanged in the personnel system until the employee returns to a position with another agency OR they terminate from the Commonwealth of Kentucky.

⁵Employee handbook, p. 16-20, <https://personnel.ky.gov/DHRA/EmployeeHandbook.pdf#page=16>

County Attorneys

The Kentucky Constitution⁶ sets forth the requirements for each of the 120 counties to elect a County Attorney every four years. Because County Attorneys provide services at the state and county level, the position requires the County Attorney and his/her staff to be available to provide numerous services. In addition to prosecuting criminal cases, County Attorneys serve as advisors to local government and most are involved in child support collection under contract with the Cabinet for Health and Family Services.

County Attorneys are included in the Unified Prosecutorial System pursuant to KRS 15.700 et seq. The County Attorney is also a “special prosecutor” under KRS 15.730 and may be appointed by the Attorney General to perform duties in lieu of a Commonwealth’s Attorney.

Duties of the County Attorney

The duties of the County Attorney in Kentucky are varied and far reaching. In addition to numerous statutory obligations, the office of County Attorney is seen as the constituents first place to go for an array of disputes, criminal and civil. Whether it is in pursuit of a private complaint, a juvenile court or domestic violence matter or child abuse and neglect, the County Attorney and assistants are called upon to be involved in the solution. Election law violations, special prosecutions, paternity matters as well as traffic cases all fall within the purview of the County Attorney. The following statutory list of obligations is seemingly ever growing.

⁶ The Office of the County Attorney was established as a constitutional office under the Kentucky Constitution of 1850. Ky. Const. (1850), Art. 6, Sec. 1. The present Kentucky Constitution requires the election of a County Attorney in each county for a term of four years. Ky. Const., Sec. 99. The County Attorney must be 24 years of age, a citizen of Kentucky, a resident of the state for two years, a resident of the county one year prior to election, and a licensed practicing attorney for two years prior to election. Ky. Const., Sec. 100. The County Attorney is not prohibited from engaging in the private practice of law.



By statute, the County Attorney is required to represent various agencies. In addition to the prosecutorial function, various state and county legal duties have been mandated to the County Attorney.

- **District Court Prosecution** - Pursuant to KRS 15.725, the County Attorney shall attend each district court held in his/her county and prosecute ALL violations of criminal and penal laws within the jurisdiction of said district court. Criminal cases at the district court level include felonies (until the case is transferred to circuit court), misdemeanors including domestic violence and dui cases, juvenile (KRS 69.210 (2)) and traffic cases.
- **Special Prosecutions** - Each County Attorney shall be ex officio, a special prosecutor of the Commonwealth, and as such shall perform duties and services that may include prosecution of cases outside of his county.
- **Protect Dependent, Neglected and Abused Children** - According to the AOC, there are Family Courts operational in 71 Kentucky counties. For those jurisdictions with a Family Court, the County Attorney or an Assistant County Attorney must attend Family Court on behalf of the Commonwealth to represent victims of neglect or abuse pursuant to KRS 620.040. For the remaining counties that do not have a family court, the County attorney prosecutes cases in district court. County Attorney responsibilities include removal of neglected and abused children from abusive families and participation on multi-disciplinary teams to review child abuse cases and coordinate the detection, prosecution, and prevention of child abuse. County Attorneys must provide exhaustive records to comply with statutory reporting requirements related to child abuse.

- **Treatment Courts** - The County Attorney is responsible for handling cases in various treatment-based courts including Drug Court, Mental Health Court and Veterans Treatment Court discussed below.
 - **Drug Court Team** - Drug Court is currently operational in 113 of Kentucky's 120 Counties. For those jurisdictions with Drug Court and/or Juvenile Drug Court, the County Attorney or an Assistant County Attorney must attend Drug Court on behalf of the Commonwealth to represent the Commonwealth's interest. County Attorneys are a necessary part of drug courts given the fact that deferred prosecutions are a critical element of a successful drug court. Drug Courts require the attendance of County Attorneys and are held separately from other court sessions requiring prosecution.
 - **Veterans Court Team** - Veterans Treatment Courts are operational in 5 counties as well.
- **Protecting the Mentally Ill and Intellectually Disabled** - KRS Chapters 202A and 202B require County Attorneys to assist petitioners and the courts in cases involving the hospitalization of the mentally ill and intellectually disabled.
- **Juvenile Prosecutions** - County Attorney or an assistant county attorney must attend prosecutions in juvenile court on behalf of the Commonwealth. See KRS 159.010; KRS 600.010 and KRS 610.010. County Attorneys have been active in establishing truancy programs which include the prosecution of truant students and the parents of students who are truants. Approximately 33 county attorney offices have reported being required to staff an active Truancy or other Juvenile court in their jurisdiction.
- **Criminal Case Charging Decisions** - In many jurisdictions co atty's serve as the gatekeeper of criminal charges and assist law enforcement in the drafting, submitting and must approve all warrants though eWarrants prior to judicial submission. Pursuant to KRS 635.010, the County Attorney shall review all criminal complaints and make a determination on how to proceed. The County Attorney or staff often takes the complaint from the complainant in addition to preparation of warrants at the request of law enforcement or other entity.
- **Child Sexual Abuse Cases** - KRS 15.727 requires the participation of prosecutors on child sexual abuse multidisciplinary teams.
- **Pre-Court Mediation and Diversion** - The County Attorney frequently mediates local complaints prior to court action.
- **Protecting the Elderly** - KRS 209.030 requires County Attorneys to participate in specialized multi-disciplinary teams to investigate elder and adult abuse. KRS 209.180 requires County Attorneys to assist in emergency removal orders and the placement of abused adults outside of the abusive household. County Attorneys are also required to receive specialized training through the Prosecutors Advisory Council concerning adult abuse, neglect and exploitation. The revisions to KRS Chapter 209 represent an unfunded mandate on County Attorneys. KRS 15.705 (4) makes the Prosecutors Advisory Council

responsible for continuing legal education for the Unified Prosecutorial System. There is no other source for prosecutorial training in Kentucky.

- **Casey's Law / Involuntary Substance Abuse Treatment** - KRS 222.436 requires County Attorneys to assist family members and loved ones of those suffering from addiction in the filing of petitions for involuntary substance abuse treatment.
- **Protecting the Disabled** - KRS 387.560 requires the County Attorney to assist petitioners and the courts in disability hearings where a guardianship or conservatorship is sought to protect a disabled person.
- **Protecting the Rights of Victims** - County Attorneys have many duties under the current KRS 421.500, et seq., the *Kentucky Crime Victim's Bill of Rights*. These duties include consultation with the victim regarding the outcome of the case, notice of court dates, notification of defendant's release from detention, and how to access an array of services and treatment options.

Expanded duties under SB 15 and SB 80 (Marsy's Law on November ballot)

In the event the proposed constitutional amendment known as "Marsy's Law passes," the duties of the County Attorney will be expanded to include additional obligations to a broader spectrum of crime victims. The changes mandated by SB 15 and SB 80 will have a marked impact on the County Attorney office staff. The definition of "victim" has been amended to include individuals both "directly and proximately harmed" as a result of any felony, a misdemeanor involving threatened or actual physical injury or harassment, or trespass.⁷ This expanded definition would add victims of felony property crimes felony fraud and misdemeanor trespass, etc. Additional contact with victims and notification requirements *without additional personnel* may hamper the ability to abide by court deadlines and avoid a delay in the criminal justice process.

⁷ Under the current victim's rights statutes, "victims" are defined individuals who have suffered direct or threatened physical, financial, or emotional harm as a result of the commission of the following crimes: Stalking, Unlawful Imprisonment, Use of a Minor in a Sexual Performance, Unlawful Transaction with a Minor, Terroristic threatening, menacing, harassing communications, intimidating a witness, criminal homicide, robbery, burglary 1st or 2nd, Rape, Sodomy, Kidnapping, Sexual Abuse, wanton endangerment, criminal abuse, incest and human trafficking.

Child Support

The Cabinet for Health and Family Services is responsible for administering and overseeing Kentucky's child support program. KRS 205.712 authorizes CHFS to enter into cooperative agreements with individual County Attorneys to provide local child support service. ***The Prosecutors Advisory Council/Unified Prosecutorial System has no role in oversight or funding for child support programs, as both responsibilities fall under CHFS.***

Vital Services

From the prosecution of domestic violence to helping those suffering from addiction and mental illness to get treatment to cases involving the protection of neglected and abused children, the elderly, and the disabled, County Attorneys handle many of the most consequential cases in Kentucky's judicial system. Our most vulnerable citizens rely County Attorney's Offices to provide services necessary to provide financial support and protect them from violence, abuse, and exploitation. These vital services can only be provided effectively by well-trained and experienced prosecutors who know how to navigate the complex array of administrative agencies, statutory requirements and courts.

Experience and Compensation

Based on a recent survey of the 120 County Attorney offices, the average years of experience for all Assistant County Attorneys in the Unified Prosecutorial System is 14 years.

Position	Average Salary	Average Years of Experience
Full Time Assistant County Attorney	\$56,000	11.2
Part Time Assistant County Attorney	\$32,000	10.5
Quarter Time/Paid No Benefits Assistant County Attorney	\$17,500	14.7

While the years of experience for prosecutors is rather high, the median years of experience for support staff in the County Attorneys offices on the Unified Prosecutorial System payroll is only 5 years, suggesting the salary is not commensurate with the workload required. To address this concern, the committee chose to review salaries of assistant prosecutors of states within our region to compare. This review yielded a clear trend that indicates Kentucky assistant prosecutors are lagging in compensation. Kentucky assistant prosecutors' average salary clearly falls toward the minimum salary range of similarly situated states. This disparity along with an apparent lack of compensation when compared with the private sector creates a significant burden for the state to hire and retain quality attorneys as front-line prosecutors. Additionally, the disruption of losing support staff often contributes to stress and low morale.

Surrounding States Salaries

ASSISTANT PROSECUTING ATTORNEY'S SALARY RANGE BY STATE

STATE	MINIMUM SALARY	MAXIMUM SALARY
VIRGINIA	\$56,697	\$134,012
TENNESSEE	\$40,440	\$106,000
FLORIDA	\$50,000	\$169,554
INDIANA	\$39,000	\$102,010
OHIO	\$42,000	\$160,526

Attorney Salaries for Kentucky and Surrounding States Annual Mean Wage (Public and Private)	
TENNESSEE	\$124,370
ILLINOIS	\$157,010
VIRGINIA	\$143,220
INDIANA	\$111,790
OHIO	\$124,160
KENTUCKY	\$102,980
MISSOURI	\$109,820
WEST VIRGINIA	\$102,040
NATIONAL	\$145,300

Source: Bureau of Labor Statistics – Occupational Employment Statistics.

<https://www.bls.gov/oes/current/oes231011.htm#st>

Challenges

Regional Issues

Kentucky enjoys a wide range of urban and rural jurisdictions. While some areas have an abundance of attorneys seeking employment, other areas do not. These jurisdictions have difficulty hiring and retaining both new and experienced attorneys.

Recruitment and retention are major challenges for County Attorney Offices hiring attorneys, particularly in areas not close to law schools. The low starting salary also makes it much more difficult to recruit minority lawyers to areas that are not close to law schools.

Diversity of Duties

County Attorneys and their assistants must not only attend to Fiscal Court or consolidated local government but must be proficient in a variety of matters including juvenile prosecution, domestic violence petitions, child abuse and neglect matters, delinquent tax collection, bad checks and attend any civil cases and proceedings in which the Commonwealth is interested.⁸

⁸ KRS 69.210

The specific demands of the job coupled with traditionally low salaries combine to create a challenge in hiring and keeping assistant county attorneys.

Dwindling Fund Sources/Limited Operating

Traditional areas of revenue are dwindling. Covid-19 has brought ticket writing to an almost complete halt across the state. Revenues from County Attorney traffic programs are correspondingly decreasing. While we hope this is a temporary situation, it hits county attorneys especially hard.

Additionally, bad check revenue has seen a continuing decline over the last decade. Fees from bad checks are almost non-existent given all the other payment options available now.

The resources County Attorneys historically used to fund the daily operations of the office are reduced while the cost to keep the doors open and the lights on continue to rise. The general fund operating allotment of \$3,000 per county barely covers just the annual supply budget for small to medium offices.

Retention/Turnover

Recruitment and retention are an on-going battle. Recruiting is difficult when public sector salaries are not competitive, the very nature of the job is highly stressful, and the working conditions are at best - unglamorous. Training young prosecutors takes a huge investment of time, only to lose them relatively quickly, often to other government agencies whose pay is more competitive, and hours are less demanding.

The Human Factor

The emotional toll on prosecutors is significant. Dealing with abused and neglected children and negative secondary effects of drug addiction places additional stress on prosecutors who worry about the impact these cases have on victims generally, and child victims in particular. High caseloads and court demands can pile on the everyday stresses of making a living on a limited salary with large college and law school debt looming, causing burn out and retention issues.

Council Recommendations

County Attorney Salary/Status Plan

1. Recommendation to add **20 new** classifications with minimum requirements for education and/or experience and minimum starting salaries for each position by status.
2. Recommendation to use the following *statuses* due to the structure of the County Attorney offices.
 - a. **Full-time** – 100% prosecutorial duties – 37.5 or 40 hours per week as determined by the elected County Attorney
 - b. **Part-time** – up to 99% prosecutorial duties – works 24 to 37 hours per add (on a 37.5 hour week) or 26 to 39.5 hours per week (on a 40 hour week)
 - c. **Paid No Benefits** – works up to 60% on prosecutorial duties – over a year this employee works the equivalent of 1 to 3 days per week (7.5 to 22.5 hours per week on 37.5 hour week or 8.0 to 24 hours per week on 40 hour week). This status allows for cyclical and intermittent work schedules that come with the demands of trials and filling in for other employees on leave. (*replaces quarter time*)
3. Recommendation to add and fully fund a minimum of 130 Full-time additional Victims Advocate positions required to address and comply with Marsy's Law.

Proposed County Attorney Classifications/ Minimum salary

Classification	Minimum Entry Level Salary (FT/PT/PNB) ⁹	Notes
1 st Asst County Attorney/Chief Prosecutor	Add \$6,000 to Min Salary for Experience level	
Asst County Attorney Staff Attorney Manager/Prosecutor Supervisor	Add \$6,000 to Min Salary for Experience level - \$81,000 for 6-9 years, \$96,000 for 10+ years	
Asst County Attorney/Prosecutor I	\$45,000/\$33,600/\$22,500	
Asst County Attorney/Prosecutor II	\$60,000/\$44,800/\$30,000	
Asst County Attorney/Prosecutor III	\$75,000/\$56,000/\$37,500	
Asst County Attorney/Prosecutor IV	\$90,000/\$67,200/\$45,000	
Office Manager	\$50,000/\$37,333/\$25,000	Large offices only*
Administrative Specialist I	\$25,000/\$18,667/\$12,500	
Administrative Specialist II	\$30,000/\$22,400/\$15,000	
Executive Admin Assistant	\$40,000/\$29,867/\$20,000	
County Detective	\$25,000/\$18,667/\$12,500	
Victims Advocate I	\$35,000/\$26,133/\$17,500	
Victims Advocate II	\$40,000/\$29,867/\$20,000	
Victims Advocate Supervisor	\$50,000/\$37,333/\$25,000	
Law Clerk	\$30,000/\$22,400/\$15,000	
Paralegal I	\$30,000/\$22,400/\$15,000	
Paralegal II	\$35,000/26,133/\$17,500	
HR Specialist	\$40,000/\$27,867/\$20,000	Large offices only*
Chief Financial Officer	\$60,000/\$45,000/\$30,000	Large office only*
Intern	Not to exceed \$20/hour	Temporary positions

*population over 100,000

⁹ *FT = Full-time 37.5 or 40 hours per week, PT = Part-Time 24 – 38 hours per week, PNB = Paid NO Benefits 1-3 days per week (not to exceed 100 hours per month on average)

Budget Analysis

Cost to bring existing staff to minimum salaries based on experience and fund new positions to address the demands of Marsy's Law.

Recommendation 1 - Implementation of the Proposed Salary Classification Plan

\$16.2M

The cost to implement the proposed new Classification/Salary Scale plan breaks down as follows:

Classification	Number In Position	Additional Salary
Asst County Atty I	42	\$ 311,700
Asst County Atty II	36	\$ 562,000
Asst County Atty III	33	\$ 674,000
Asst County Atty IV	165	\$ 5,693,600
Total*	276	\$ 7,241,300

**The cost for First Assistant designation has been added to this total*

Classification	Number in Pos	Additional Salary
ADMIN SPECIALIST I	67	\$ 133,300
ADMIN SPECIALIST II	7	\$ 17,500
EXECUTIVE ADMIN ASSISTANT	120	\$ 50,800
PARALEGAL I	7	\$ 28,400
PARALEGAL II	11	\$ 28,300
VICTIM ADVOCATE I	10	\$ 7,000
VICTIM ADVOCATE II	6	\$ 7,800
LAW CLERK	3	\$ 11,400
COUNTY DETECTIVE	1	-
Total	232	\$ 1,204,500

The minimum total cost to implement the new salary classification and compensation plan as proposed would be approximately \$16.2M for salary and benefits in FY21 (using the 84.43% KERS employer share retirement rate).

Recommendation 2 – Cost to Implement Status Plan

\$0

There will be no budget impact or cost associated with implementing the Paid No Benefits designation. The statuses defined will offer more guidance to the elected officials when determining working hours and duties of existing and newly hired staff.

Recommendation 3 – Fiscal Impact of the passage of Marsy’s Law on County Attorney Offices

\$11.4M

As a result of proposed legislation known as Marsy’s Law – the definition of the term “victim” is expanded to include many more individuals that currently recognized. This means the rights and notifications will apply to every single victim in every case that Commonwealth Attorney's offices and County Attorneys are dealing with (thefts, receiving stolen property, cold checks, poss. of a forged instrument). This will be a huge increase in workload. Furthermore, the County Attorney's offices will be required to comply with Marsy's law while the felonies are being managed in District Court before the Grand Jury. They will need additional staff for this purpose and for the Marsy's law requirements that will apply to misdemeanors.

Currently, the 120 County Attorney offices have only 16 Victims Advocates on payroll with nearly all of these advocates funded through Victims of Crime Act (VOCA) funding. The VOCA funding is not guaranteed and must be awarded each year after an application process. The VOCA grants require matching funds which deters most County Attorneys from even applying. The funding has been reduced in prior years and it is likely to fluctuate downward again soon if predictions are accurate. This would result in the loss of some if not all of the only advocates on the County Attorney payroll.

The combination of the current grossly insufficient number of advocates assigned to County Attorney Offices, the possibility of losing even those if federal funding is reduced AND the implementation of Marsy's Law would effectively cripple the County Attorney prosecutorial system. Therefore, the addition of 130 full-time victims advocates to address the numerous and unpredictable demands of Marsy's Law is not negotiable¹⁰.

The cost for 130 Victims Advocates will be: \$11.4M in FY21 (using the FY21 KERS rate of 84.43%)

¹⁰ Offices serving populations of approximately 100,000 will require two full-time advocates while the top two most populous counties are expected to require at least three full-time advocates to address the demand of Marsy's Law.

Conclusion

County Attorney Offices currently lack the state funds necessary to perform state prosecutorial functions. Most offices, especially larger ones, must use other office funds to meet the basic salary requirements to adequately prosecute cases on behalf of the Commonwealth. While County Attorneys have historically filled this salary gap through cold check, delinquent taxes, or traffic program funds, these sources, especially cold checks and delinquent taxes, are on a sharp decline. Given that the total operating budget for all County Attorney Offices equals one percent (1%) of the total PAC County Attorney budget which equates to \$3,000 per office per year, County Attorneys must continue using these other funding sources to supply office basics - such as computers, equipment, IT, phones, copy paper, and other office supplies.

For years many prosecutors remained at County Attorney Offices despite earning salaries less than their private sector peers and similarly situated prosecutors in bordering states. With the reduction in pension benefits to attract talent and declining budgets that prevent bridging the salary gap, County Attorneys face the challenge of retaining qualified staff to perform prosecutorial functions on behalf of the Commonwealth. The recommended statuses and salary structures will help ensure that salaries are sufficient to retain talent while allowing for the flexibility necessary to adequately cover court duties and responsibilities.

APPENDIX A

Detailed Salary Classification Chart with Minimum Education and Experience Requirements

**County Attorneys
Salary Scale Subcommittee
Proposed Classifications**

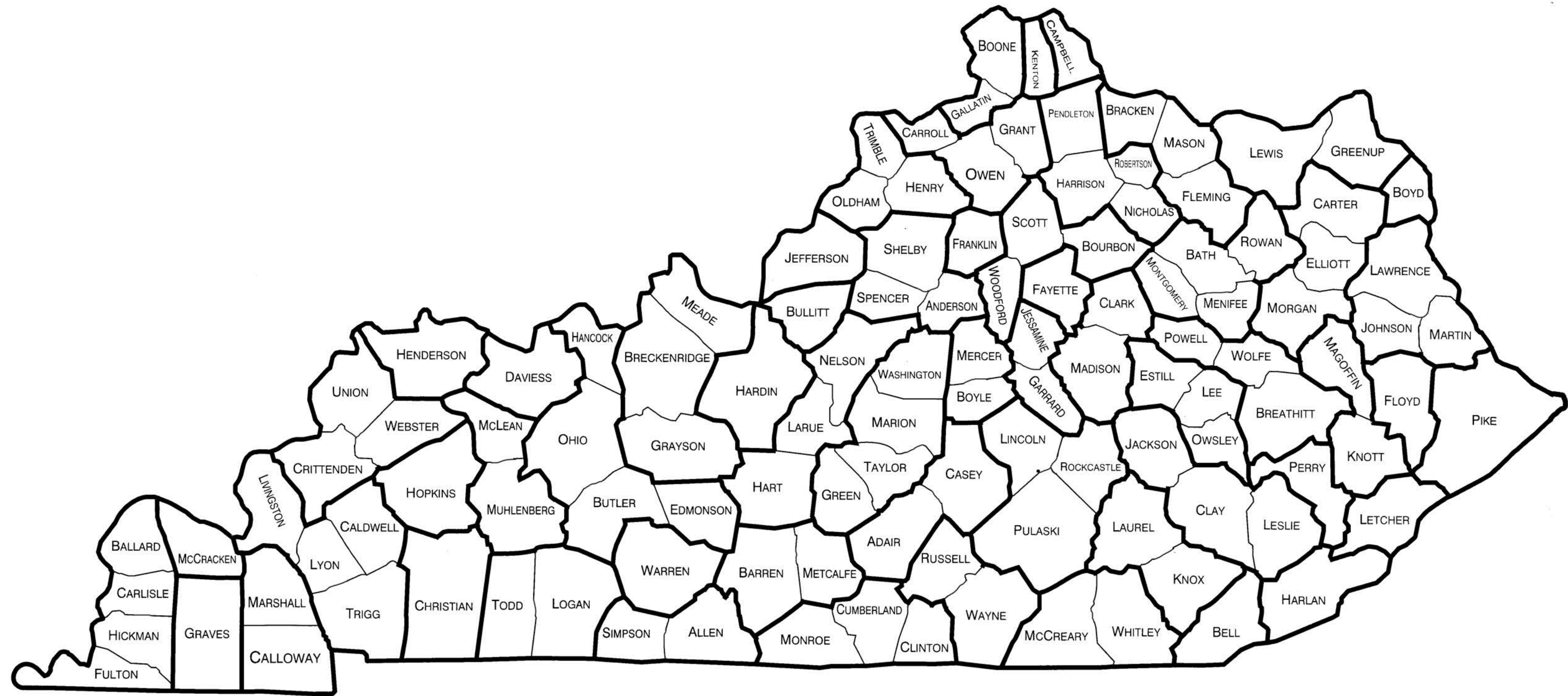
Job Title	Min Ed Req	Min Exp Req	Other Req	Minimum Salary Full-Time	Minimum Salary Part-Time	Minimum Salary - Paid No Benefits	Comments
Chief Prosecutor /1st Assistant County Attorney	See Other Req	Significant criminal trial experience, leadership qualities exhibited and/or experience	Must be admitted to practice law (minimum of 5 years) and in good standing in the Commonwealth of KY or comply with SCR 2.111 Limited certification of admission to practice. Must maintain any required licensure(s), certification(s), or other credentials for the length of employment in this classification.	see comment	\$37,856-\$71,344	\$25,350-\$47,775	Employing <i>agency</i> is responsible for ensuring employee possesses and maintains required licensure(s), or other credentials. 0-3 +\$6,000 = \$51,000, 4-6 = \$66,000, 7-9 = \$81,000, 10+ = \$96,000
Assistant County Attorney 1	See Other Req	0 to 3 years	Must be admitted to practice law and in good standing in the Commonwealth of KY or comply with SCR 2.111 Limited certification of admission to practice. Must maintain any required licensure(s), certification(s), or other credentials for the length of employment in this classification. <i>Skill set must include: Effective written and oral advocacy, including bench and jury trials. Must be able to handle high volumes of cases and be able to multi-task.</i>	\$ 45,000	\$ 33,600	\$ 22,500	Employing agency is responsible for ensuring employee possesses and maintains required licensure(s), or other credentials.
Assistant County Attorney 2	See Other Req	4 to 6 years	Must be admitted to practice law and in good standing in the Commonwealth of KY or comply with SCR 2.111 Limited certification of admission to practice. Must maintain any required licensure(s), certification(s), or other credentials for the length of employment in this classification.	\$ 60,000	\$ 44,800	\$ 30,000	Employing agency is responsible for ensuring employee possesses and maintains required licensure(s), or other credentials.
Assistant County Attorney 3	See Other Req	7 and over	Must be admitted to practice law (minimum of 5 years) and in good standing in the Commonwealth of KY or comply with SCR 2.111 Limited certification of admission to practice. Must maintain any required licensure(s), certification(s), or other credentials for the length of employment in this classification.	\$ 75,000	\$ 56,000	\$ 37,500	Employing agency is responsible for ensuring employee possesses and maintains required licensure(s), or other credentials.
Assistant County Attorney 4	See Other Req	10 and over	Must be admitted to practice law (minimum of 5 years) and in good standing in the Commonwealth of KY or comply with SCR 2.111 Limited certification of admission to practice. Must maintain any required licensure(s), certification(s), or other credentials for the length of employment in this classification.	\$ 90,000	\$ 67,200	\$ 45,000	Employing agency is responsible for ensuring employee possesses and maintains required licensure(s), or other credentials.
Prosecuting Staff Attorney Manager/Supervisor	See Other Req	3 years relevant legal experience or equivalent supervising attorneys		see comment	\$61,152-\$71,344	\$40,950-\$47,775	minimum is incremental by step in grade - \$6000 per year - for 6-10years experience = \$81k; 10 years and up= \$96K
Administrative Specialist 1	High School Graduate or Equivalent	1 year admin experience	Skill set includes proficiency in typing, transcription and proofreading.	\$ 25,000	\$ 18,667	\$ 12,500	Additional considerations for salary above entry level: 1) Experience working in prosecutor's office as secretary or other capacity 2) Jurisdiction population size and/or case load size 3) Location has documented hiring/retention difficulties
Administrative Specialist 2	Associates Degree or Substitute Experience for Education: Additional administrative, business, research , and/or clerical experience will substitute for the required education on a year-for year basis;	3 yrs or Substitute Education for Experience: Additional education will substitute for the required experience on a year-for year basis.	<i>May supervise subordinate employees; provides support to the division head or elected official</i>	\$ 30,000	\$ 22,400	\$ 15,000	Additional considerations for salary above entry level: 1) Experience working in prosecutor's office as administrator other capacity 2) Jurisdiction population size and/or case load size 3) Location has documented hiring/retention difficulties
Executive Administrative Assistant	Associates or Substitute Experience for Education: Additional administrative, business, research , and/or clerical experience will substitute for the required education on a year-for year basis;	4 yrs secretarial or administrative; Substitute Education for Experience: Additional education will substitute for the required experience on a year by year basis.	<i>Skill set includes proficiency in typing, transcription and proofreading. Provides admin support to the elected official</i>	\$ 40,000	\$ 29,867	\$ 20,000	Additional considerations for salary above entry level: 1) Experience working in prosecutor's office as administrator other capacity 2) Jurisdiction population size and/or case load size 3) Location has documented hiring/retention difficulties
Office Manager	Associate degree in Business management; HR, Accounting field, - sub experience	10 years Experience; sub education for experience		\$ 50,000	\$ 37,333	\$ 25,000	

**County Attorneys
Salary Scale Subcommittee
Proposed Classifications**

Job Title	Min Ed Req	Min Exp Req	Other Req	Minimum Salary Full-Time	Minimum Salary Part-Time	Minimum Salary - Paid No Benefits	Comments
Paralegal 1	Graduate of a college or university with a bachelor's degree in paralegal science or a bachelor's degree with a minor in paralegal studies OR two-year program in paralegal studies OR post-baccalaureate certificate in paralegal studies OR a Juris Doctorate or a law degree from a college of law. Substitute EXPERIENCE for EDUCATION: Experience as a paralegal or legal secretary will substitute for the bachelor's degree on a year-for-year basis.	0 yrs		\$ 30,000	\$ 22,400	\$ 15,000	
Paralegal 2	Graduate of a college or university with a bachelor's degree in paralegal science or a bachelor's degree with a minor in paralegal studies OR two-year program in paralegal studies OR post-baccalaureate certificate in paralegal studies or Substitute experience for education: Experience as a paralegal or legal secretary will substitute for the bachelor's degree on a year-for-year basis.	4 yrs or A Juris Doctorate will substitute for the education and experience requirement.		\$ 35,000	\$ 26,133	\$ 17,500	
County Detective	Graduate of a college or university with a bachelor's degree or Experience as a sworn law enforcement officer will substitute for the required education on a year-for-year basis. KRS 69.350 (County)	2 yrs	Must possess a valid driver's license prior to appointment in this classification. Must be 21 years of age. Employees in this classification are subject to the provisions of KRS Chapter 15 and 503 KAR 1:140 relating to peace officer certification as administered by the Kentucky Law Enforcement Council. Must be POP certified pursuant to KRS 69.360	\$ 25,000	\$ 18,667	\$ 12,500	
Victims Advocate 1	Graduate of a college or university with a bachelor's degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice or other human service field or Received a high school diploma or equivalency certificate, and, in addition to the experience required, has at least four (4) years experience working in the human services field or court system. KRS 69.350 (County)	At least 18 years old, good moral character, with at least two (2) years' experience working in human services field or court system in a position requiring professional contact with children or adults.		\$ 35,000	\$ 26,133	\$ 17,500	
Victims Advocate 2	Graduate of a college or university with a bachelor's degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice or other human service field or Received a high school diploma or equivalency certificate, and, in addition to the experience required, has at least four (4) years experience working in the human services field or court system. KRS 69.350 (County)	At least 18 years old, good moral character, with at least four (4) years' experience working in human services field or court system in a position requiring professional contact with children or adults.		\$ 40,000	\$ 29,867	\$ 20,000	
Victims Advocate Supervisor	Graduate of a college or university with a bachelor's degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice or other human service field or Received a high school diploma or equivalency certificate, and, in addition to the experience required, has at least four (4) years experience working in the human services field or court system. KRS 69.350 (County)	At least 18 years old, good moral character, with at least four (4) years' experience working in human services field or court system in a position requiring professional contact with children or adults. 6 years of experience will substitute for a masters degree		\$ 45,000	\$ 33,600	\$ 22,500	
HR Specialist	Bachelors in Business Admin/Human Resources - experience will substitute	3 years relevant experience in Human Resources field		\$ 40,000	\$ 29,867	\$ 20,000	Large Counties only
Chief Financial Officer	Bachelors in Business Admin/Accounting or a related field - experience will substitute	5 years relevant experience in Accounting		\$ 60,000	\$ 45,000	\$ 30,000	Large Counties only
Law Clerk	1 Year Law School	None		\$ 30,000	\$ 22,400	\$ 15,000	
Intern (Temporary Positions)	n/a	n/a					Not to exceed \$20/hr

APPENDIX B

County Map



COUNTY ATTORNEYS

Adair	Jennifer Hutchison-Corbin	Edmonson	Gregory Vincent	Knox	Gilbert Holland	Nicholas	Dawn Letcher
Allen	Hallye M. Arterburn	Elliott	Johnie Lewis	Larue	Kyle Williamson	Ohio	Justin Keown
Anderson	Bobbi Jo Lewis	Estill	Jason Riley	Laurel	J. L. Albright	Oldham	John Carter
Ballard	Vicki Hayden	Fayette	Larry Roberts	Lawrence	Michael Hogan	Owen	Josh Smith
Barren	Kathryn Thomas	Fleming	Monica Hill	Lee	Tom Hollon	Owsley	Henley McIntosh
Bath	Kim Hunt Price	Floyd	Keith Bartley	Leslie	Leroy Lewis	Pendleton	Stacey Sanning
Bell	Neil Ward	Franklin	Rick Sparks	Letcher	Jamie Hatton	Perry	John Shackelford
Boone	Robert Neace	Fulton	Richard Major, Jr.	Lewis	Benjamin Harrison	Pike	Howard Keith Hall
Bourbon	G. Davis Wilson	Gallatin	John Wright	Lincoln	Daryl Day	Powell	Robert Graham King
Boyd	C. Philip Hedrick	Garrard	Mark Metcalf	Livingston	Allen Wilson	Pulaski	Martin Hatfield
Boyle	Christopher Herron	Grant	Stephen Bates	Logan	Joe Ross	Robertson	Jesse Melcher
Bracken	Beth Moore	Graves	John Cunningham	Lyon	Lee Wilson	Rockcastle	Jeremy Lowe
Breathitt	Brendon Miller	Grayson	Jeremy Logsdon	McCracken	Sam Clymer	Rowan	Cecil Watkins
Breckinridge	Bradley Butler	Green	Russ Goff	McCreary	Austin Price	Russell	Kevin Shearer
Bullitt	John Wooldridge	Greenup	Mike Wilson	McLean	Donna Dant	Scott	Rand Marshall
Butler	Richard Deye	Hancock	Paul Madden, Jr.	Madison	Jenny Haymond	Shelby	Hart Megibben
Caldwell	Roy Massey, IV	Hardin	Jenny Oldham	Magoffin	Greg Allen	Simpson	Sam Phillips
Calloway	Bryan Ernstberger	Harlan	Fred Busroe, Jr.	Marion	Lisa Nally-Martin	Spencer	Ken Jones
Campbell	Steven Franzen	Harrison	Bradley Vaughn	Marshall	Jason Darnall	Taylor	John Bertram
Carlisle	Michael Hogancamp	Hart	Mike Nichols	Martin	Melissa Phelps	Todd	Jeffrey Traugher
Carroll	Nicholas Marsh	Henderson	Steve Gold	Mason	John Estill	Trigg	Randall Braboy
Carter	Brian Bayes	Henry	Virginia Harrod	Meade	Jessica Roberts	Trimble	Crystal Heinz
Casey	Thomas Weddle, Jr.	Hickman	Jason Batts	Menifee	Greg Hall	Union	Julie Wallace
Christian	John Soyars	Hopkins	Byron Hobgood	Mercer	Ted Dean	Warren	Amy Milliken
Clark	William Elkins	Jackson	Ross Murray	Metcalf	Barry Gilley	Washington	Bill Robinson
Clay	Joseph White	Jefferson	Michael O'Connell	Monroe	Wes Stephens	Wayne	Tom Simmons
Clinton	Michael Rains	Jessamine	Brian Goettl	Montgomery	Kevin Cockrell	Webster	Wm. Clint Prow
Crittenden	Rebecca Johnson	Johnson	Michael Endicott	Morgan	Myles Holbrook	Whitley	Robert Hammons
Cumberland	Lindsey Bell	Kenton	Stacy Tapke	Muhlenberg	Ryan Rice	Wolfe	Stephen Johnson
Daviess	Claud Porter	Knott	Tim Bates	Nelson	Matthew Hite	Woodford	Alan George

APPENDIX C

Citations

Citations

HB 352

20. UNIFIED PROSECUTORIAL SYSTEM

Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriations in this Act.

Employment Salary Scale: The Prosecutors Advisory Council shall develop a proposed salary scale for the employees of the Unified Prosecutorial System. Among the criteria that the proposal may include are pay differential and locality pay. The proposal shall also establish part-time positions as hourly or by one-quarter or one-half of a full-time equivalent. The Council shall finalize and submit the proposed salary scale to the Interim Joint Committee on Appropriations and Revenue by August 1, 2020. The salary scale shall not be implemented until approved by the General Assembly.

KRS 15.700 Unified and Integrated Prosecutor System Established

KRS 18A. 010 Establishment of state personnel system

KRS 15.760 Staff of Commonwealth's Attorney

KRS 69.300 Duties and Qualifications of Assistant County Attorneys

KRS 61.510 Kentucky Employment Retirement Systems (KERS)

KRS 15.725 Duties of Commonwealth's Attorney and county attorneys--Agreements to share or redistribute prosecutorial duties

KRS 15.730 Commonwealth's and county attorneys as special prosecutors

KRS 15.242 Election law jurisdiction

KRS 69.210 Duties of county attorney

KRS 620.040 Duties of Prosecutor~ Multidisciplinary teams

KRS 159.010 Compulsory Attendance (truancy)

KRS 600.010 Juvenile code

KRS 610.010 District Court jurisdiction juvenile matters

KRS 635.010 Complaint (public offense) Duties of county attorney and court designated worker

KRS 15.727 Prosecutors on Multidisciplinary Teams

KRS 209.030 Adult Protection (Elder Abuse)

KRS 222.430 Involuntary Treatment for Substance Abuse Disorder (Casey's Law)

KRS 387.560 Duty of county attorney, guardianship petitions

KRS 421.500 Crime Victim's Bill of Rights

SB 15, 80 Marsy's Law Constitutional Amendment