

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 420 Session of 2021

INTRODUCED BY YAW, MARTIN, BAKER, VOGEL, GORDNER, PITTMAN, YUDICHAK AND MENSCH, MARCH 12, 2021

SENATOR BAKER, JUDICIARY, AS AMENDED, MARCH 23, 2021

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled
2 "An act relating to counties of the first, second class A,
3 third, fourth, fifth, sixth, seventh and eighth classes;
4 amending, revising, consolidating and changing the laws
5 relating thereto; relating to imposition of excise taxes by
6 counties, including authorizing imposition of an excise tax
7 on the rental of motor vehicles by counties of the first
8 class; and providing for regional renaissance initiatives,"
9 in district attorney, assistants and detectives, further
10 providing for district attorney, qualifications, eligibility
11 and compensation and for filling of vacancies. <--

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 1401(a) of the act of August 9, 1955
15 (P.L.323, No.130), known as The County Code, is amended AND THE <--
16 SECTION IS AMENDED BY ADDING A SUBSECTION to read:

17 Section 1401. District Attorney; Qualifications;
18 Eligibility; Compensation.--(a) The district attorney shall be
19 a resident of the county, at least twenty-five years of age, and
20 a citizen of the United States, shall have been admitted to
21 practice as an attorney before the Supreme Court of this
22 Commonwealth for at least one year prior to taking the oath of

1 office and shall continually hold an active law license during
2 the period when the individual is in office and shall have
3 resided in the county for which the district attorney is elected
4 or appointed for one year next preceding election or
5 appointment.

6 (B) THE FOLLOWING SHALL APPLY: <--

7 (1) IF A DISTRICT ATTORNEY IS DISBARRED, THE OFFICE OF
8 DISTRICT ATTORNEY SHALL BE VACANT AND SHALL BE FILLED AS
9 PROVIDED UNDER SECTION 1404 OR, FOR A COUNTY OF THE SECOND
10 CLASS, UNDER SECTION 1404 OF THE ACT OF JULY 28, 1953 (P.L.723,
11 NO.230), KNOWN AS THE SECOND CLASS COUNTY CODE.

12 (2) IF A DISTRICT ATTORNEY'S LAW LICENSE IS SUSPENDED, THE
13 OFFICE OF DISTRICT ATTORNEY SHALL NOT BE VACANT BUT THE DISTRICT
14 ATTORNEY SHALL BE SUSPENDED FROM THE OFFICE UNTIL THE LAW
15 LICENSE OF THE DISTRICT ATTORNEY IS REINSTATED OR THE EXPIRATION
16 OF THE TERM OF THE DISTRICT ATTORNEY, WHICHEVER IS SOONER. THE
17 FIRST ASSISTANT DISTRICT ATTORNEY, IF WILLING, QUALIFIED AND
18 ABLE, SHALL ACT AS THE DISTRICT ATTORNEY. IF THE FIRST ASSISTANT
19 DISTRICT ATTORNEY IS UNWILLING, UNQUALIFIED OR UNABLE TO SERVE,
20 THE JUDGES OF THE COURT OF COMMON PLEAS SHALL APPOINT A
21 COMPETENT PERSON WHO SATISFIES THE REQUIREMENTS OF THIS SECTION
22 TO ACT AS DISTRICT ATTORNEY.

23 * * *

24 ~~Section 2. Section 1404 of the act, amended September 28,~~ <--
25 ~~2020 (P.L.705, No.78), is amended to read:~~

26 ~~Section 1404. Filling of Vacancies. (a) [If any vacancy~~
27 ~~shall occur] Except as provided under subsection (a.1), if a~~
28 ~~vacancy occurs in the office of district attorney in a county of~~
29 ~~the second class A or third class, [either] by death,~~
30 ~~resignation, removal from office or from the county, or~~

1 otherwise, the judges of the court of common pleas shall
2 ~~[supply] fill~~ such vacancy by the appointment of a competent
3 person to fill the office during the balance of the unexpired
4 term.

5 ~~(a.1) If a vacancy occurs in the office of district attorney~~
6 ~~in a county of the second class A or third class because of the~~
7 ~~disbarment of the district attorney or the suspension of the~~
8 ~~district attorney's law license, the judges of the court of~~
9 ~~common pleas shall fill the vacancy by the appointment of a~~
10 ~~competent person to fill the office until the district~~
11 ~~attorney's law license is reinstated, or if the district~~
12 ~~attorney's law license is not reinstated, during the balance of~~
13 ~~the unexpired term.~~

14 ~~(b) [If any vacancy shall occur] Except as provided under~~
15 ~~subsection (b.1), if a vacancy occurs in the office of district~~
16 ~~attorney in a county of the fourth through eighth class, the~~
17 ~~judges of the court of common pleas shall, upon a showing that~~
18 ~~the first assistant district attorney satisfies the requirements~~
19 ~~of section 1401, appoint the first assistant district attorney~~
20 ~~to fill the office of district attorney and to discharge the~~
21 ~~duties of the district attorney until the first Monday in~~
22 ~~January following the next municipal election occurring not less~~
23 ~~than ninety days after the occurrence of the vacancy. If the~~
24 ~~first assistant district attorney is unwilling or unable to~~
25 ~~serve or does not satisfy the requirements of section 1401, the~~
26 ~~judges of the court of common pleas shall fill the vacancy by~~
27 ~~the appointment of a competent person who satisfies the~~
28 ~~requirements of section 1401 to fill the office until the first~~
29 ~~Monday in January following the next municipal election~~
30 ~~occurring not less than ninety days after the occurrence of the~~

1 vacancy.

2 ~~(b.1) If a vacancy occurs in the office of district attorney~~
3 ~~in a county of the fourth through eighth class because of the~~
4 ~~disbarment of the district attorney or the suspension of the~~
5 ~~district attorney's law license, the judges of the court of~~
6 ~~common pleas shall, upon showing that the first assistant~~
7 ~~district attorney satisfies the requirements of section 1401,~~
8 ~~appoint the first assistant district attorney to fill the office~~
9 ~~and to discharge the duties of the district attorney until the~~
10 ~~district attorney's law license is reinstated or until the first~~
11 ~~Monday in January following the next municipal election~~
12 ~~occurring not less than ninety days after the occurrence of the~~
13 ~~vacancy, whichever occurs first. If the first assistant district~~
14 ~~attorney is unwilling or unable to serve or does not satisfy the~~
15 ~~requirements of section 1401, the judges of the court of common~~
16 ~~pleas shall fill the vacancy by the appointment of a competent~~
17 ~~person who satisfies the requirements of section 1401 to fill~~
18 ~~the office until the district attorney's law license is~~
19 ~~reinstated or until the first Monday in January following the~~
20 ~~next municipal election occurring not less than ninety days~~
21 ~~after the occurrence of the vacancy, whichever is first.~~

22 Section 3. ~~The amendment of sections 1401(a) and 1404 of the~~
23 ~~act shall apply to individuals taking the oath of office for~~
24 ~~district attorney on or after the effective date of this~~
25 ~~section.~~

26 Section 4 2. This act shall take effect immediately.

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