

GOVERNMENT CODE

TITLE 2. JUDICIAL BRANCH

SUBTITLE C. PROSECUTING ATTORNEYS

CHAPTER 45. COUNTY ATTORNEYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 45.001. BOND. (a) Each county attorney shall execute a bond payable to the governor in the amount of \$2,500, with at least two good and sufficient sureties to be approved by the commissioners court of the county.

(b) The bond must be conditioned on the county attorney faithfully paying over in the manner prescribed by law all money that he collects or receives for any county or the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.002. APPOINTMENT AND OATH OF ASSISTANT. (a) The qualifications for an assistant county attorney are the same as for the county attorney who appoints him.

(b) Before beginning any duties, an assistant county attorney must take the official oath of office, which must be endorsed on his written appointment.

(c) The appointment and oath of an assistant county attorney shall be recorded and deposited in the county clerk's office.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER B. PROVISIONS APPLICABLE TO SPECIFIC COUNTIES

Sec. 45.104. ARANSAS COUNTY. (a) In Aransas County, the county attorney of Aransas County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Aransas County or the Commissioners Court of Aransas County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Aransas

County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.09(b), eff. September 1, 2015.

Sec. 45.112. BAYLOR COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Baylor County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.126. BURLESON COUNTY. In Burleson County, the county attorney of Burleson County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

Added by Acts 2019, 86th Leg., R.S., Ch. 606 (S.B. 891), Sec. 6.04, eff. September 1, 2019.

Sec. 45.130. CALLAHAN COUNTY. If there is no county attorney in Callahan County, the criminal district attorney in Taylor County shall represent the state in all matters pending before the 42nd District Court in Callahan County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, Sec. 2.52(c), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., 1st C.S., ch. 8, Sec. 10, eff. Sept. 1, 1991.

Sec. 45.142. COLEMAN COUNTY. (a) The county attorney of Coleman County may perform all duties required of district and county attorneys by general law in all matters pending before the district court in Coleman County.

(b) If the county attorney of Coleman County performs the duties of district attorney before the district courts in Coleman County as provided by Subsection (a), the county attorney is entitled to receive from the state a salary of \$5,000 a year. The county attorney may not receive that salary for a period of time

during which the county attorney does not perform those duties. The county attorney may not receive that salary unless he certifies to the comptroller of public accounts that he is performing the duties of district attorney as required and must notify the comptroller immediately if he ceases to perform those duties. The county attorney is also entitled to receive funds from the state for the payment of staff salaries and other office expenses at the same rate as provided in the General Appropriations Act for a district attorney in a single-county district for a period during which the county attorney performs the duties of district attorney.

(c) If there is no county attorney in Coleman County, the criminal district attorney in Taylor County shall represent the state in all matters pending before the 42nd District Court in Coleman County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.52(d), eff. Sept. 1, 1987.

Sec. 45.145. COLORADO COUNTY. (a) In Colorado County, the county attorney of Colorado County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Colorado County or the Commissioners Court of Colorado County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Colorado County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 1997, 75th Leg., ch. 1448, Sec. 2, eff. Sept. 1, 1997.

Sec. 45.151. COTTLE COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Cottle County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.154. CROSBY COUNTY. The county attorney of Crosby

County, who performs the duties of a district attorney, is entitled to be compensated by the state in the manner and amount fixed by general law relating to the salary paid to district attorneys by the state.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 378, Sec. 2, eff. Sept. 1, 1997.

Sec. 45.168. ECTOR COUNTY. (a) It is the primary duty of the county attorney in Ector County to represent the state, Ector County, and the officials of the county in all civil matters, other than asset forfeiture and bond forfeiture matters for which the district attorney is responsible, pending before the courts of Ector County and any other court in which the state, Ector County, or the county officials have matters pending.

(b) The county attorney has no power, duty, or privilege in Ector County relating to criminal matters, juvenile matters under Title 3, Family Code, or matters involving children's protective services.

Added by Acts 2021, 87th Leg., R.S., Ch. 934 (H.B. 3774), Sec. 14.02, eff. September 1, 2021.

Sec. 45.171. EL PASO COUNTY. (a) It is the primary duty of the county attorney in El Paso County or his assistants to represent the state, El Paso County, and the officials of El Paso County in all civil matters pending before the courts of El Paso County and any other courts in which the state, the county, or the officials of the county have matters pending.

(b) The county attorney has the powers, duties, and privileges relating to the prosecution of misdemeanors that relate to health and environmental matters and that relate to the prosecution of misdemeanors under Section 32.42, Penal Code.

(c) At the request of the district attorney, the county attorney may assist the district attorney in criminal cases in El Paso County.

(d) The county attorney in El Paso County performs the duty of collecting and processing checks and similar sight orders as provided under Article 102.007, Code of Criminal Procedure, and

prosecutes misdemeanors where a check or sight order is the instrument by which the misdemeanor is committed.

Added by Acts 1993, 73rd Leg., ch. 493, Sec. 2, eff. Oct. 1, 1993.

Sec. 45.175. FAYETTE COUNTY. In Fayette County the county attorney of Fayette County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.62(a), eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 2, Sec. 1, eff. Feb. 28, 1991.

Sec. 45.179. FORT BEND COUNTY. (a) It is the primary duty of the county attorney in Fort Bend County to represent the state, Fort Bend County, and the officials of the county in all civil matters pending before the courts of Fort Bend County and any other courts in which the state, Fort Bend County, or the county officials have matters pending.

(b) The county attorney shall represent the Fort Bend County Drainage District and any other county entity created by law.

(c) The county attorney has the powers, duties, and privileges in Fort Bend County relating to civil commitment matters under Subtitle C, Title 7, Health and Safety Code, for and on behalf of the state.

(c-1) The county attorney has the powers, duties, and privileges in Fort Bend County relating to matters involving children's protective services.

(d) The county attorney has no power, duty, or privilege in Fort Bend County relating to family law and juvenile matters, except as provided by Subsection (c-1), protective orders under Title 4, Family Code, orders under Chapter 159, Family Code, and proceedings under Title 3, Family Code.

(e) The county attorney has no power, duty, or privilege in Fort Bend County relating to criminal matters or matters directly relating to criminal matters, including any asset forfeiture

relating to a criminal activity, and bond forfeiture proceedings through judgment other than collection of a final judgment on a bond forfeiture.

(f) Except as provided by Section [43.181\(d\)](#), the county attorney has all the powers, duties, and privileges in Fort Bend County relating to quo warranto and removal from office proceedings.

(g) At the request of the district attorney, the county attorney may assist the district attorney in criminal cases in Fort Bend County.

(h) The county attorney shall, with the approval of the commissioners court, appoint the assistant county attorneys and other assistants necessary to the proper performance of the county attorney's duties. The commissioners court shall set the salary of an assistant to the county attorney.

Added by Acts 1989, 71st Leg., ch. 1099, Sec. 2, eff. Jan. 1, 1991.

Amended by Acts 1991, 72nd Leg. ch. 76, Sec. 15, eff. Sept. 1, 1991;

Acts 1997, 75th Leg., ch. 165, Sec. 7.31, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 659 (H.B. [3263](#)), Sec. 2, eff. September 1, 2005.

Sec. 45.189. GONZALES COUNTY. (a) In Gonzales County, the county attorney of Gonzales County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Gonzales County or the Commissioners Court of Gonzales County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Gonzales County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 872 (H.B. [696](#)), Sec. 2, eff. September 1, 2013.

Sec. 45.193. GRIMES COUNTY. (a) The county attorney of Grimes County shall represent the state, Grimes County, and the officials of the county in all civil matters pending before the courts of Grimes County and any other court.

(b) The county attorney has the powers, duties, and privileges in Grimes County relating to civil commitment matters under Subtitle C, Title 7, Health and Safety Code, family law and juvenile matters, including children's protective services matters, protective orders under Chapter 71, Family Code, orders under Chapter 159, Family Code, and proceedings under Title 3, Family Code.

(c) Except as provided by Section 43.1745, the county attorney has all the powers, duties, and privileges in Grimes County relating to quo warranto and proceedings for removal from office.

(d) The county attorney has no power, duty, or privilege in Grimes County relating to criminal matters, including asset forfeitures under Chapter 59, Code of Criminal Procedure, appearance bond forfeitures under Chapter 17, Code of Criminal Procedure, and habeas corpus related to criminal matters.

Added by Acts 1995, 74th Leg., ch. 704, Sec. 26, eff. Jan. 1, 1997.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.32, eff. Sept. 1, 1997.

Sec. 45.194. GUADALUPE COUNTY. (a) In Guadalupe County the county attorney of Guadalupe County shall perform the duties imposed on and have the powers conferred on district attorneys by general law and is entitled to be compensated by the state in the manner and amount set by general law relating to the salary paid to district attorneys by the state.

(b) The county attorney of Guadalupe County or the Commissioners Court of Guadalupe County may accept gifts or grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Guadalupe County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this

subsection.

Added by Acts 2015, 84th Leg., R.S., Ch. 1182 (S.B. 1139), Sec. 3.10(a), eff. January 1, 2017.

Sec. 45.201. HARRIS COUNTY. It is the primary duty of the county attorney in Harris County or his assistants to represent the state, Harris County, and the officials of Harris County in all civil matters pending before the courts of Harris County and any other courts in which the state, the county, or the officials of the county have matters pending. The county attorney shall represent the Harris County Flood Control District and perform the other duties imposed by this section without any additional fee, compensation, or perquisite other than that paid by Harris County out of its officers' salary fund.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.227. JONES COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Jones County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.235. KING COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in King County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.238. KNOX COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Knox County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.243. LAVACA COUNTY. (a) In Lavaca County, the county attorney of Lavaca County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Lavaca County or the Commissioners Court of Lavaca County may accept gifts or grants

from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting the operation of the office of county attorney in Lavaca County. The county attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 644 (H.B. 717), Sec. 2, eff. September 1, 2013.

Sec. 45.244. LEE COUNTY. The county attorney of Lee County represents the state in all matters pending before the district courts in Lee County.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.63(a), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 762, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 819, Sec. 1, eff. Sept. 1, 1993.

Sec. 45.261. MATAGORDA COUNTY. (a) It is the primary duty of the county attorney in Matagorda County to represent the state, Matagorda County, and the officials of the county in civil matters pending before any court in which the state, Matagorda County, or the officials have matters pending.

(b) The county attorney shall handle children's protective services, protective orders under the Family Code, and proceedings under Title 2 or 5, Family Code.

(c) At the request of the district attorney, the county attorney may assist the district attorney in criminal cases in Matagorda County.

Added by Acts 1995, 74th Leg., ch. 457, Sec. 3, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.33, eff. Sept. 1, 1997.

Sec. 45.270. MONTGOMERY COUNTY. (a) The county attorney of Montgomery County, or the county attorney's assistants, shall represent the state, Montgomery County, and the officials of the county in all civil matters pending before a court of Montgomery County or any other court.

(b) The county attorney has the powers, duties, and

privileges in Montgomery County relating to:

- (1) civil commitment matters under Subtitle C, Title 7, Health and Safety Code;
- (2) juvenile matters, including proceedings under Title 3, Family Code;
- (3) child protective services; and
- (4) protective orders under Title 4, Family Code.

(c) Notwithstanding Subsection (a), the commissioners court in Montgomery County may retain independent counsel in any civil matter.

Added by Acts 2005, 79th Leg., Ch. 821 (S.B. 792), Sec. 1, eff. June 17, 2005.

Sec. 45.280. OLDHAM COUNTY. (a) The county attorney in Oldham County shall represent the state in all matters pending before the district court in Oldham County.

(b) The county attorney in Oldham County is entitled to be compensated by the state in the manner and amount provided by general law relating to the salary paid to district attorneys by the state. Oldham County shall pay \$28,500 of the county attorney's total salary, and the state shall pay the remainder of the salary.

(c) The county attorney in Oldham County is entitled to receive from the state the amount provided in the General Appropriations Act for the payment of staff salaries and office expenses in single-county districts.

(d) If there is no county attorney in Oldham County, the criminal district attorney of Deaf Smith County shall represent the state in all matters pending before the district court in Oldham County on appointment by the judge of the district court in Oldham County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 1570, Sec. 2, eff. Sept. 1, 1999.

Sec. 45.290. RAINS COUNTY. (a) In Rains County, the county attorney of Rains County shall perform the duties imposed on and have the powers conferred on district attorneys by general law.

(b) The county attorney of Rains County is entitled to be

compensated by the state in the manner and amount fixed by general law relating to the salary paid to district attorneys by the state. Rains County is also entitled to receive from the state an amount equal to the amount provided in the General Appropriations Act to district attorneys for the payment of staff salaries and expenses of the office.

Added by Acts 1999, 76th Leg., ch. 917, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 174, Sec. 1, eff. Sept. 1, 2001.

Sec. 45.309. SHACKELFORD COUNTY. The county attorney shall represent the state in all misdemeanor cases before the district court in Shackelford County.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.315. STEPHENS COUNTY. The county attorney of Stephens County shall represent the state in all misdemeanor cases before the district court of the county.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.319. SWISHER COUNTY. The county attorney in Swisher County shall represent the state in all matters pending before the district court in Swisher County.

Added by Acts 2009, 81st Leg., R.S., Ch. 787 (S.B. [1166](#)), Sec. 2, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1103 (H.B. [4833](#)), Sec. 16(b), eff. September 1, 2009.

Sec. 45.340. WEBB COUNTY. The county attorney handles or prosecutes all juvenile, child welfare, and mental health cases in Webb County, the other civil cases in Webb County where the state is a party, and the other duties imposed by law on the office of county attorney.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 45.341. WHARTON COUNTY. (a) The primary duty of the county attorney in Wharton County is to represent the state,

Wharton County, and county officials in civil matters.

(b) The county attorney has the powers and duties relating to cases involving protective orders under Chapter 71, Family Code, and cases under Title 5, Family Code, including cases brought for the protection of children.

(c) At the request of the district attorney, the county attorney may assist the district attorney in the prosecution of criminal cases in Wharton County.

(d) The county attorney represents the state in proceedings under Title 3, Family Code.

(e) The county attorney represents the Wharton County Drainage District.

Added by Acts 1997, 75th Leg., ch. 477, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 51, Sec. 2, eff. Sept. 1, 2003.