STATE OF COLORADO

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Bill Ritter, Jr.
Governor

D 2010-010

EXECUTIVE ORDER

Requiring the Attorney General to Prosecute All Criminal Actions and Proceedings in the Twenty-Second Judicial District

By the authority vested in the Office of the Governor of the State of Colorado pursuant to C.R.S. § 24-31-101(1)(a), I, Bill Ritter, Jr., Governor of the State of Colorado, hereby issue this Executive Order requiring the Attorney General of the State of Colorado to prosecute all criminal actions and proceedings in the Twenty-Second Judicial District, and otherwise assume the powers of the Office of District Attorney for the Twenty-Second Judicial District.

I. Background and Purpose

On Saturday, May 22, 2010, Jim Wilson, District Attorney for the Twenty-Second Judicial District, was killed in a motorcycle accident near Golden, Colorado. Due to the tragic death of Mr. Wilson, it is necessary that I take action to assure the continued functioning of the office of the district attorney in the Twenty-Second Judicial District.

Colorado Revised Statutes § 24-31-101(1)(a) provides that the Attorney General "shall appear for the state and prosecute and defend all actions and proceedings, civil and criminal, in which the state is a party or is interested when required to do so by the governor . . . ." Under this provision, the Attorney General must prosecute criminal matters when required to do so by the Governor.

An assistant attorney general who prosecutes a case under the authority of C.R.S. § 24-31-101 is exercising the district attorney's powers: "[W]hen the Governor or the General Assembly requires the Attorney General to prosecute a criminal case in which the state is a party, he becomes to all intents and purposes the district attorney, and may in his own name and official capacity exercise all the powers of such officer, for he is then, and in that case, the public prosecutor." *People v. Gibson*, 53 Colo. 231, 244 (1912); *see also People ex rel. Witcher v. District Court*, 190 Colo. 483, 485 (1976). Thus, a special assistant attorney general is empowered to prosecute criminal matters with the same authority as the district attorney, when required to do so by the Governor.

Moreover, as provided by C.R.S. § 24-31-101(3), the Attorney General may appoint the existing deputy district attorneys in the Twenty Second Judicial District as special assistant attorneys general to assist with the performance of the duties required by this order: "The attorney general may appoint such deputies and assistants as are necessary for the efficient operation of his office . . . ."

By the authority cited above, I am requiring the Attorney General to prosecute all criminal matters in which the State is a party in the Twenty-Second Judicial District until such time as I fill the vacancy in the office pursuant to article VI, section 20(4) of the Colorado Constitution and section 1-12-204 of the Colorado Revised Statutes.

II. Directive

Pursuant to C.R.S. § 24-31-101(1)(a), I hereby require the Attorney General to appear for the State and prosecute all criminal actions and proceedings in which the State is a party in the Twenty-Second Judicial District.

III. Duration

This Executive Order shall remain in force until modified or terminated by further Executive Order or until I appoint a district attorney for the Twenty-Second Judicial District pursuant to article VI, section 20(4) of the Colorado Constitution and section 1-12-204 of the Colorado Revised Statutes.

GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty-third day of May, 2010.

Bill Ritter, Jr.
Governor