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# Kathleen Kane's law license suspended by PA Supreme Court



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SEPTEMBER 21, 2015, 2:46 PM

**H**ARRISBURG — Attorney General Kathleen Kane's law license has been suspended by the state Supreme Court, possibly paving the way for her removal from elective office.

The court's 5-0 ruling, issued today, means Kane must surrender her law license — which she needs to do her job — under an "emergency temporary suspension" sought last month by the court's disciplinary board for lawyers. In a one-page order, all justices agreed with the board that the perjury and related charges Kane is facing for allegedly orchestrating and lying about a grand jury leak have her damaged her ability to oversee the statewide criminal and civil justice functions her office provides the commonwealth.

"And now, this 21st day of September, 2015, upon consideration of the responses to a Rule to Show Cause why Kathleen Granahan Kane should not be placed on temporary suspension, the Rule is made absolute," the order states. "Respondent Kathleen Granahan Kane is placed on temporary suspension."

A law license is a pre-requisite to be attorney general under the Commonwealth Attorneys Act of 1980, which made the attorney general's office an independent, elected position.

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The court's suspension, however, does not remove Kane from office. Because a suspended lawyer cannot practice law, the court's suspension could set off an unprecedented legal and constitutional chain reaction involving all three branches of state government and perhaps eventually cost Kane her \$158,764 job.

"This order should not be construed as removing Respondent from elected office and is limited to the temporary suspension of her license to practice law," the order states.

Within minutes of the court order being sent to media, Kane's office released a one-sentence response.

"We plan to review the court's decision and make a statement once the review is completed," the response said.

Kane's personal legal team handling the suspension issued a statement expressing disappointment in the ruling and alleging she has not been given proper due process under the law.

"To be clear, General Kane has not been convicted of anything. She has been accused," James F. Mundy, Kane's Scranton lawyer wrote. "There is another side to this story that the public has never heard. When General Kane is given the opportunity to be heard, the other side of the story will finally come out."

Kane, a 49-year-old Democrat from Clarks Summit, Lackawanna County, will be arraigned Oct. 14 in Montgomery County Court. A trial date is expected to be set for late this year or early 2016.

Kane may not be in office by next year due to the temporary loss of her law license, which the discipline board said is warranted because she poses an "immediate and substantial public or private harm" due to his or her "egregious conduct."

The court rule for emergency suspension rule says one justice or the entire court can decide to suspend a lawyer's license. The Supreme Court's full contingent is seven justices but it is down to five due to vacancies.

Voting to suspend Kane were: Chief Justice Thomas G. Saylor, a Republican from Cumberland County, and Justices J. Michael Eakin, a Republican from Lancaster County; Max Baer, a Democrat from Allegheny County; Debra McCloskey Todd, a Democrat from Allegheny County; and Correale F. Stevens, a Republican from Luzerne County.

The Commonwealth Attorneys Act says only a licensed member of the bar can be attorney general, according to Bruce Ledewitz, a professor at Duquesne University School of Law with expertise in the Pennsylvania Constitution and court rules.

A suspension is not a disbarment. Suspension would mean Kane at least temporarily could not practice law, but she would remain a lawyer, Ledewitz has said. Still, a suspension could be fatal to Kane's career because it could lead to one of three ways the state constitution says an elected

official can be removed from office.

The first is legislative impeachment. The process, which is long and cumbersome, starts in the House and, following a quasi-trial, two-thirds of the 50-member Senate must vote to impeach.

The Republican-controlled Legislature has not seemed enthusiastic about getting involved in Kane's legal wranglings except to call for her to resign.

A quicker way to remove an elected official from office is a quo warranto court action.

Under the constitution, only the attorney general or a county district attorney can file a quo warranto petition. Kane is unlikely to file one against herself. And it is unclear if a county district attorney could -- or would be willing to -- file one against Kane if there is an attorney general's office in his or her jurisdiction.

The third removal option involves the governor and Senate. It is called "direct address" — and it has never been used in Pennsylvania.

The amendment says all elected civil officers, with the exception of the governor, lieutenant governor, lawmakers and judges, "shall be removed by the governor for reasonable cause" after they are given due process notice and the Senate affirms the governor's wishes on a two-thirds majority vote.

There is legal debate in the state about whether the "direct address" starts first with the governor or the Senate. The administration of Democratic Gov. Tom Wolf and the Republican-controlled Senate believe the removal process starts in the Senate. However, other law experts think Wolf would have to initiate the process.

Kane was elected in November 2012 in a landslide partly by tapping into public anger over the Jerry Sandusky sex abuse scandal at Penn State University. Prior to her election, Kane was a stay-at-home mom and political fundraiser following a brief career as an assistant district attorney in her home county.

Kane's first year in office was filled with praise among her fellow Democrats, leading to speculation her political star was so bright she could win election to U.S. Senate. The second year her star went out after The Philadelphia Inquirer reported on March 16, 2014 that she had dropped an undercover sting into public officials taking bribes in exchange for political favors.

The article made Kane "paranoid" because she thought it made her look weak on crime and she sought revenge, according to statements of grand jury witnesses in court filings. Without proof,

Kane accused former state prosecutors Frank Fina and E. Marc Costanzo of being the anonymous sources in the Inquirer story, according to an affidavit. Fina and Costanzo had been critical of Kane's campaign vow to review the investigation of Sandusky, who was convicted and is serving decades in prison.

The affidavit states Kane orchestrated and then lied about leaking information to the Philadelphia Daily News pertaining to a 2009 grand jury case, which Fina and Costanzo led. Kane believed the case made the two prosecutors look soft on crime because it did not lead to charges against the main target, J. Whyatt Mondesire, ex-Philadelphia NAACP chief, the affidavit states.

In May 2014, Fina and Costanzo alerted Montgomery County Judge William Carpenter, who oversees grand jury matters in southeastern Pennsylvania, that the Daily News was asking questions about the Mondesire probe, which had been closed. Carpenter approved a grand jury investigation into the alleged leak. In December, the grand jury recommended Kane be charge with perjury and related offenses, which caused county District Attorney Risa Vetri Ferman to conduct her own independent probe.

On Aug. 8, Ferman charged Kane.

Kane and her lawyers say she is innocent. Fina and Costanzo "corruptly manufactured" the leak investigation, Kane's lawyers say in court filings. The two men sought to stop Kane from revealing a stash of pornographic emails she found during a review of how her predecessor handled the Sandusky investigation, a court filing states.

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