

1 A JOINT RESOLUTION limiting the Governor and Lieutenant Governor to
2 participate in litigation only pertaining to interests particular to his or her office.

3 WHEREAS, the Attorney General has been recognized as the proper party to
4 determine whether a legal action should be undertaken by the Commonwealth; and

5 WHEREAS, the Attorney General has been and remains the official who is
6 authorized to defend any lawsuit filed against the Commonwealth; and

7 WHEREAS, the Attorney General has broad discretion and authority as the chief
8 law officer of the Commonwealth to sue for relief against government actors whose
9 actions lack legal authority or are otherwise unconstitutional; and

10 WHEREAS, as chief law officer, the Attorney General has broad discretion in the
11 performance of his or her public duties and the exercise of this discretion is a necessary
12 and proper function of that office; and

13 WHEREAS, KRS 15.020 mandates that the Attorney General "appear for the
14 Commonwealth in all cases in the Supreme Court or Court of Appeals wherein the
15 Commonwealth is interested" and to "commence all actions or enter an appearance in all
16 cases, hearings, and proceedings in and before all other courts, tribunals, or commissions
17 in our out of the state, and attend to all litigation and legal business in or out of the state
18 required of the office by law, or in which the Commonwealth has an interest"; and

19 WHEREAS, the courts of this Commonwealth and have historically held that the
20 Attorney General is the authority to represent the Commonwealth and its officials in any
21 litigation affecting the Commonwealth. The United States Supreme Court has confirmed
22 this principle. In *Cameron v. EMW Women's Surgical Center., P.S.C.*, 595 U.S. 267, 278
23 (2022), the Court held "[i]ndeed it is the attorney general who is deemed Kentucky's
24 'chief law officer' with the authority to represent the Commonwealth 'in all cases.'"; and

25 WHEREAS, recent actions to circumvent the Attorney General's authority to
26 exercise his statutory and common law duties erode public confidence in government and
27 the proper functioning of government;

1 NOW, THEREFORE,

2 ***Be it resolved by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. The Governor or Lieutenant Governor may participate in litigation to
4 defend or vindicate only those interests particular to the Office of the Governor or
5 Lieutenant Governor.

6 ➔Section 2. Notwithstanding KRS 12.210, only the Attorney General may bring
7 or participate in litigation on behalf of the Commonwealth in federal court regarding
8 federal executive action, or regarding relief from such actions.

9 ➔Section 3. Any action taken by the Governor or Lieutenant Governor contrary
10 to Section 1 or 2 of this Resolution shall be void, and the Attorney General shall be
11 authorized to enforce this Resolution by means including but not limited to intervening in
12 any court as the sole party empowered to represent the public interest and political
13 subdivisions of the Commonwealth.