

SENATE BILL NO. 575

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

2272S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 56.110, RSMo, and to enact in lieu thereof two new sections relating to prosecuting attorneys.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 56.110, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 56.110 and 56.601, to read as follows:

56.110. 1. **There is hereby created the "Missouri Special Prosecutor Appointment Committee", within the office of the attorney general whose members shall be elected by a secret ballot vote of the prosecuting and circuit attorneys of the state.**

2. **The committee shall be composed of the following five members:**

(1) **The executive director of the Missouri office of prosecution services;**

(2) **One prosecuting or circuit attorney from a county of the first classification;**

(3) **One prosecuting attorney from a county of the second or fourth classification; and**

(4) **Two prosecuting attorneys each from a county of the third classification, at least one of whom shall be a part-time prosecuting attorney.**

3. **The committee shall establish rules and procedures, including the location and conduct of its meetings, and the**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 election of a chairperson of the committee, which may be
20 held by telephone or by video conference. All records of
21 the Missouri special prosecutor appointment committee shall
22 be considered closed records. The committee shall meet when
23 called by:

- 24 (1) The chairperson of the committee;
- 25 (2) The executive director of the Missouri Office of
26 prosecution services; or
- 27 (3) Three members of the committee.

28 The members of the committee shall serve without
29 compensation but shall be entitled to their actual expenses
30 incurred in attending meetings and in the performance of
31 their duties.

32 4. If the prosecuting attorney and assistant
33 prosecuting attorney be interested or shall have been
34 employed as counsel in any case where such employment is
35 inconsistent with the duties of his or her office, or shall
36 be related to the defendant **or defense counsel** in any
37 criminal prosecution, either by blood or by marriage, the
38 [court having criminal jurisdiction] **Missouri special**
39 **prosecutor appointment committee** may appoint some other
40 attorney to prosecute or defend the cause. Such special
41 prosecutor shall not otherwise represent a party other than
42 the state of Missouri in any criminal case or proceeding in
43 that circuit for the duration of that appointment and shall
44 be considered an appointed prosecutor for purposes of
45 section 56.360.

56.601. 1. If the number of occurrences of homicide
2 cases exceeds thirty-five for every one hundred thousand
3 people within the circuit or prosecuting attorney's
4 jurisdiction and, after reviewing federal, state, or local

5 crime statistics, the governor determines that a threat to
6 public safety and health exists in the jurisdiction, the
7 governor may submit a request to the Missouri special
8 prosecutor appointment committee, established under section
9 56.110, to select an attorney to serve as special prosecutor
10 and to provide the name of the attorney to the governor
11 within thirty days of receiving the request from the
12 governor. The governor shall timely appoint the special
13 prosecutor, who shall serve for a period of up to five
14 years. If the committee does not provide the governor with
15 the name of an attorney to serve as special prosecutor
16 within thirty days, the governor shall himself or herself
17 select an attorney to appoint as special prosecutor. The
18 special prosecutor shall be employed at will, shall not be
19 required to reside in the jurisdiction to which he or she
20 was appointed to serve, and shall be an attorney.

21 2. (1) The special prosecutor shall have exclusive
22 jurisdiction to initiate and prosecute the following felony
23 offenses if a firearm is used in the commission of such
24 offenses:

25 (a) Murder in the first degree under section 565.020;
26 (b) Murder in the second degree under section 565.021;
27 (c) Assault in the first degree under section 565.050;
28 (d) Assault in the second degree under section 565.052;
29 (e) Robbery in the first degree under section 570.023;
30 (f) Robbery in the second degree under section
31 570.025; and

32 (g) Vehicle hijacking under section 570.027.

33 (2) For felony offenses listed under subdivision (1)
34 of this subsection, the special prosecutor shall have all
35 powers, duties, and responsibilities granted to the circuit
36 or prosecuting attorney in the jurisdiction under sections

37 56.087, 56.130, and 56.360. If an offense leads to criminal
38 charges, the special prosecutor shall have exclusive
39 jurisdiction over all other charges stemming from the same
40 criminal event. After the special prosecutor has filed
41 criminal charges in a case over which he or she has
42 exclusive jurisdiction, the special prosecutor shall
43 continue to have exclusive jurisdiction over the entire
44 criminal case regardless of whether the charges are later
45 reduced.

46 3. (1) Moneys for the special prosecutor shall be
47 provided by the state from the general revenue fund. The
48 special prosecutor shall be paid the same salary as a state
49 circuit court judge and, upon his or her appointment, shall
50 become a member of the prosecuting attorneys and circuit
51 attorneys' retirement system as set forth under sections
52 56.800 to 56.840.

53 (2) The special prosecutor shall have a budget, which
54 shall be provided by the state from the general revenue
55 fund, to hire up to fifteen assistant special prosecuting
56 attorneys and up to fifteen staff members including, but not
57 limited to, assistants, clerks, reporters, grand jury
58 reporters, legal investigators, and stenographers, as the
59 special prosecutor deems necessary. The assistant special
60 prosecuting attorneys and staff of the special prosecutor
61 shall be subject to the same duties and responsibilities as
62 those in the prosecutor shall have all powers, duties, and
63 responsibilities granted to the circuit or prosecuting
64 attorney in the jurisdiction under sections 56.087, 56.130,
65 and 56.360. If an offense leads to criminal charges for
66 which the special prosecutor has determined by the special
67 prosecutor but shall be within the budget provided by the
68 state.

69 (3) If, at the end of the first five-year term of the
70 special prosecutor, the governor, after reviewing federal,
71 state, or local crime statistics or the backlog of criminal
72 cases in the circuit or prosecuting attorney's office,
73 determines that a threat to public safety and health or a
74 backlog in criminal cases in the jurisdiction still exists,
75 the governor may continue to appoint the special prosecutor
76 for five-year terms as provided under this section.

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