

SENATE BILL NO. 350

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

1358S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 115.642, RSMo, and to enact in lieu thereof one new section relating to election crimes and security.

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

Section A. Section 115.642, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 115.642,
3 to read as follows:

115.642. 1. [Any person may file a complaint with the
2 secretary of state stating the name of any person who has
3 violated any of the provisions of sections 115.629 to
4 115.646 and stating the facts of the alleged offense, sworn
5 to, under penalty of perjury.

6 2. Within thirty days of receiving a complaint, the
7 secretary of state shall notify the person filing the
8 complaint whether or not the secretary has dismissed the
9 complaint or will commence an investigation. The secretary
10 of state shall dismiss frivolous complaints. For purposes
11 of this subsection, "frivolous complaint" shall mean an
12 allegation clearly lacking any basis in fact or law. Any
13 person who makes a frivolous complaint pursuant to this
14 section shall be liable for actual and compensatory damages
15 to the alleged violator for holding the alleged violator
16 before the public in a false light. If reasonable grounds
17 appear that the alleged offense was committed, the secretary
18 of state may issue a probable cause statement. If 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 secretary of state issues a probable cause statement, he or
20 she may refer the offense to the appropriate prosecuting
21 attorney.

22 3. Notwithstanding the provisions of section 27.060,
23 56.060, or 56.430 to the contrary, when requested by the
24 prosecuting attorney or circuit attorney, the secretary of
25 state or his or her authorized representatives may aid any
26 prosecuting attorney or circuit attorney in the commencement
27 and prosecution of election offenses as provided in sections
28 115.629 to 115.646.

29 4. (1) The secretary of state may investigate any
30 suspected violation of any of the provisions of sections
31 115.629 to 115.646.

32 (2) (a) The secretary of state or an authorized
33 representative of the secretary of state shall have the
34 power to require the production of books, papers,
35 correspondence, memoranda, contracts, agreements, and other
36 records by subpoena or otherwise when necessary to conduct
37 an investigation under this section. Such powers shall be
38 exercised only at the specific written direction of the
39 secretary of state or his or her chief deputy.

40 (b) If any person refuses to comply with a subpoena
41 issued under this subsection, the secretary of state may
42 seek to enforce the subpoena before a court of competent
43 jurisdiction to require the production of books, papers,
44 correspondence, memoranda, contracts, agreements, and other
45 records. The court may issue an order requiring the person
46 to produce records relating to the matter under
47 investigation or in question. Any person who fails to
48 comply with the order may be held in contempt of court.

49 (c) The provisions of this subdivision shall expire on
50 August 28, 2025.] **The "Office of Election Crimes and**

51 Security" is hereby created within the office of the
52 secretary of state. The secretary of state shall appoint a
53 director of the office. The office shall be based in
54 Jefferson City and shall employ investigators. The
55 positions and resources necessary for the office to
56 accomplish its duties shall be established through and
57 subject to the legislative appropriations process.

58 2. (1) The office of election crimes and security
59 shall have the following responsibilities and authority:

60 (a) The office may review complaints and conduct
61 investigations into alleged violations of this chapter, or
62 any rule adopted pursuant thereto;

63 (b) The office shall oversee a voter fraud hotline;

64 (c) For purposes of investigation, the office shall
65 have the authority to receive sworn statements and to issue
66 subpoenas to compel the production of records, books,
67 papers, correspondence, memoranda, contracts, agreements,
68 and other documents by subpoena or otherwise when necessary
69 to conduct an investigation pursuant to this section.

70 (2) If any person refuses to comply with a subpoena
71 issued pursuant to this subsection, the secretary of state
72 may seek to enforce the subpoena before a court of competent
73 jurisdiction. The court may issue an order requiring the
74 person to produce the documents relating to the matter under
75 investigation or in question. Any person who fails to
76 comply with the order may be held in contempt of court.

77 (3) If during the course of investigation, the office
78 determines that there may be a violation of any criminal law
79 or provision of this chapter, the findings of the
80 investigation shall be turned over to the attorney general
81 and prosecuting attorney for the jurisdiction where the

82 violation may have occurred for further investigation or
83 prosecution.

84 (4) This section does not limit the jurisdiction of
85 any other office or agency of the state empowered by law to
86 investigate, act upon, or dispose of alleged violation of
87 this chapter.

88 (5) (a) By January fifteenth of each year, the office
89 shall submit a report to the governor, the president pro
90 tempore of the senate, and the speaker of the house of
91 representatives detailing information on investigations of
92 alleged violations of this chapter conducted during the
93 prior calendar year.

94 (b) The report shall include the total number of
95 complaints received and independent investigations
96 initiated, and the number of complaints referred to another
97 agency for further investigation or prosecution.

98 (c) For each alleged violation investigated, the
99 report shall include:

- 100 a. The source of the alleged violation;
101 b. The law allegedly violated and the nature of the
102 alleged violation reported;
103 c. The county in which the alleged violation occurred;
104 d. Whether the alleged violation was referred to
105 another entity for further investigation or prosecution, and
106 if so, to which entity; and
107 e. The current status of the investigation or
108 resulting criminal case.

109 3. Notwithstanding any other provision of law to the
110 contrary, a member of the office of election crimes and
111 security, upon the receipt of a complaint of any alleged
112 violation of this chapter, may enter a polling place or
113 office of any election authority during the absentee voting

114 period, election day, or during the canvass of votes for the
115 purposes of investigating any potential violation of this
116 chapter.

117 4. The attorney general shall have investigative
118 authority over all violations over any of the provisions of
119 sections 115.629 to 115.646 throughout the state.

120 5. The attorney general shall have concurrent
121 prosecution authority with the appropriate prosecuting
122 attorney over all violations of the provisions of sections
123 115.629 to 115.646.

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