

# SENATE BILL NO. 651

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

2372S.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Section A. Section 56.110, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 56.110 and 56.601, to read as follows: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 circuit or prosecuting attorney in the  
63 jurisdiction under sections 56.087, 56.130, and 56.360. If  
64 an offense leads to criminal charges for which the special  
65 prosecutor has determined by the special prosecutor but  
66 shall be within the budget provided by the state.

67 (3) If, at the end of the first five-year term of the  
68 special prosecutor, the governor, after reviewing federal,

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

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