

FIRST REGULAR SESSION

SENATE BILL NO. 79

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0160S.011

AN ACT

To repeal sections 1.020, 56.010, 56.805, and 56.814, RSMo, and to enact in lieu thereof ten new sections relating to prosecutors.

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

Section A. Sections 1.020, 56.010, 56.805, and 56.814, RSMo, are repealed
2 and ten new sections enacted in lieu thereof, to be known as sections 1.020,
3 56.010, 56.805, 56.814, 56.900, 56.905, 56.910, 56.915, 56.920, and 56.925, to read
4 as follows:

1.020. As used in the statutory laws of this state, unless otherwise
2 specially provided or unless plainly repugnant to the intent of the legislature or
3 to the context thereof:

4 (1) "Certified mail" or "certified mail with return receipt requested",
5 includes certified mail carried by the United States Postal Service, or any parcel
6 or letter carried by an overnight, express, or ground delivery service that allows
7 a sender or recipient to electronically track its location and provides record of the
8 signature of the recipient;

9 (2) ["County or circuit attorney" means prosecuting attorney] **"County**
10 **attorney", "circuit attorney", "state's attorney", "prosecuting attorney",**
11 **or any derivation thereof, when used in the context of the functions,**
12 **duties, powers, and responsibilities of the office, means an elected**
13 **official of a county or designated jurisdiction with the responsibility**
14 **for prosecuting violations of state law;**

15 (3) "Executor" includes administrator where the subject matter applies to
16 an administrator;

17 (4) "General election" means the election required to be held on the

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

18 Tuesday succeeding the first Monday of November, biennially;

19 (5) "Guardian", if used in a section in a context relating to property rights
20 or obligations, means conservator of the estate as defined in chapter
21 475. "Guardianship", if used in a section in a context relating to rights and
22 obligations other than property rights or obligations, means guardian of the
23 person as defined in chapter 475;

24 (6) "Handicap" means a mental or physical impairment that substantially
25 limits one or more major life activities, whether the impairment is congenital or
26 acquired by accident, injury, or disease, and where the impairment is verified by
27 medical findings;

28 (7) "Heretofore" means any time previous to the day when the statute
29 containing it takes effect; and "hereafter" means the time after the statute
30 containing it takes effect;

31 (8) "In vacation" includes any adjournment of court for more than one day
32 whenever any act is authorized to be done by or any power given to a court, or
33 judge thereof in vacation, or whenever any act is authorized to be done by or any
34 power given to a clerk of any court in vacation;

35 (9) "Incompetent", if used in a section in a context relating to actual
36 occupational ability without reference to a court adjudication of incompetency,
37 means the actual ability of a person to perform in that
38 occupation. "Incompetent", if used in a section in a context relating to the
39 property rights and obligations of a person, means a disabled person as defined
40 in chapter 475. "Incompetent", if used in a section in a context relating to the
41 rights and obligations of a person other than property rights and obligations,
42 means an incapacitated person as defined in chapter 475;

43 (10) "Justice of the county court" means commissioner of the county
44 commission;

45 (11) "Month" and "year". "Month" means a calendar month, and "year"
46 means a calendar year unless otherwise expressed, and is equivalent to the words
47 year of our Lord;

48 (12) The word "person" may extend and be applied to bodies politic and
49 corporate, and to partnerships and other unincorporated associations;

50 (13) "Personal property" includes money, goods, chattels, things in action
51 and evidences of debt;

52 (14) "Place of residence" means the place where the family of any person
53 permanently resides in this state, and the place where any person having no

54 family generally lodges;

55 (15) "Preceding" and "following", when used by way of reference to any
56 section of the statutes, mean the section next preceding or next following that in
57 which the reference is made, unless some other section is expressly designated
58 in the reference;

59 (16) "Property" includes real and personal property;

60 (17) "Real property" or "premises" or "real estate" or "lands" is coextensive
61 with lands, tenements and hereditaments;

62 (18) "State", when applied to any of the United States, includes the
63 District of Columbia and the territories, and the words "United States" includes
64 such district and territories;

65 (19) "Under legal disability" includes persons within the age of minority
66 or of unsound mind or imprisoned;

67 (20) "Ward", if used in a section in a context relating to the property
68 rights and obligations of a person, means a protectee as defined in chapter
69 475. "Ward", if used in a section in a context relating to the rights and
70 obligations of a person other than property rights and obligations, means a ward
71 as defined in chapter 475;

72 (21) "Will" includes the words testament and codicil;

73 (22) "Written" and "in writing" and "writing word for word" includes
74 printing, lithographing, or other mode of representing words and letters, but in
75 all cases where the signature of any person is required, the proper handwriting
76 of the person, or his mark, is intended.

56.805. As used in sections 56.800 to 56.840, the following words and
2 terms mean:

3 (1) "Annuity", annual payments, made in equal monthly installments, to
4 a retired member from funds provided for, in, or authorized by, the provisions of
5 sections 56.800 to 56.840;

6 (2) "Average final compensation", the average compensation of an
7 employee for the two consecutive years prior to retirement when the employee's
8 compensation was greatest;

9 (3) "Board of trustees" or "board", the board of trustees established by the
10 provisions of sections 56.800 to 56.840;

11 (4) "Compensation", all salary and other compensation payable by a
12 county to an employee for personal services rendered as an employee, but not
13 including travel and mileage reimbursement;

- 14 (5) "County", the city of St. Louis and each county in the state;
- 15 (6) "Creditable service", the sum of both membership service and
16 creditable prior service;
- 17 (7) "Effective date of the establishment of the system", August 28, 1989;
- 18 (8) "Employee", an elected or appointed prosecuting attorney or circuit
19 attorney who is employed by a county or a city not within a county **or an elected**
20 **or appointed state's attorney employed by the state;**
- 21 (9) "Membership service", service as a prosecuting attorney or circuit
22 attorney after becoming a member that is creditable in determining the amount
23 of the member's benefits under this system;
- 24 (10) "Prior service", service of a member rendered prior to the effective
25 date of the establishment of the system which is creditable under section 56.823;
- 26 (11) **"Prosecuting attorney", shall include any elected or**
27 **appointed prosecuting attorney, circuit attorney, or state's attorney;**
- 28 **(12)** "Retirement system" or "system", the prosecuting attorneys and
29 circuit attorneys' retirement system authorized by the provisions of sections
30 56.800 to 56.840.

56.010. At the general election [to be held in this state in the year A.D.
2 1982] **in the year 2018**, and every four years thereafter, there shall be elected
3 in each county [of this state] **which has not elected to become part of the**
4 **state's attorney system** a prosecuting attorney, who shall be a person learned
5 in the law, duly licensed to practice as an attorney at law in this state, and
6 enrolled as such, at least twenty-one years of age, and who has been a bona fide
7 resident of the county in which he **or she** seeks election for twelve months next
8 preceding the date of the general election at which he **or she** is a candidate for
9 such office and shall hold his **or her** office for four years, and until his **or her**
10 successor is elected, commissioned and qualified.

56.814. 1. Any member who has attained the age of sixty-two years and
2 who has twelve years or more of creditable service as prosecuting attorney or
3 circuit attorney may retire with a normal annuity.

4 **2. Any person who is a member of the retirement system on**
5 **December 31, 2018, and who has served more than four years as a**
6 **prosecuting attorney or circuit attorney in a county which elects to**
7 **become part of the state's attorney system and does not become a**
8 **state's attorney on January 1, 2019, may elect to receive a reduced**
9 **retirement benefit at age sixty-two in a sum equal to the proportion of**

10 the retirement benefit provided in section 56.816 that the person's
11 period of service bears to twelve years.

56.900. 1. At the general election in the year 2018, and every four
2 years thereafter, there shall be elected in each judicial circuit of this
3 state a state's attorney for those counties in the circuit that elect to
4 become part of the state's attorney system pursuant to section
5 56.925. The state's attorney shall be duly licensed to practice as an
6 attorney at law in this state and shall have been a bona fide resident
7 of the jurisdiction in which such person seeks election for twelve
8 months next preceding the date of the general election at which such
9 person is a candidate for such office.

10 2. The geographical boundaries of the judicial circuits shall
11 correspond to the circuit realignment plan developed pursuant to
12 section 478.073.

13 3. State's attorneys elected under the provisions of this section
14 shall enter upon the discharge of their duties on the first day of
15 January following their election, commission, and qualification.

16 4. The state's attorney in each jurisdiction shall receive the same
17 annual salary as that of a circuit judge, which shall be paid by the state
18 out of the state treasury. A state's attorney in a jurisdiction consisting
19 of a single county with a charter form of government may receive
20 additional compensation set by the governing body of the county in its
21 sole discretion and paid out of the county treasury, chargeable to the
22 county general revenue fund.

56.905. 1. In those counties in the judicial circuit that are
2 participating in the state's attorney system, the state's attorney shall
3 commence and prosecute all criminal and ancillary actions in which the
4 county or state is concerned. In cases in which changes of venue are
5 granted, the state's attorney shall follow and continue prosecution of
6 the case. If any misdemeanor case is appealed to the court of appeals,
7 the state's attorney shall represent the state in the case in the court.

8 2. Notwithstanding any provision of law to the contrary, if a
9 state's attorney is unable to commence or prosecute a criminal case due
10 to conflict of interest on the part of the state's attorney, the presiding
11 judge shall appoint the state's attorney or prosecuting attorney from
12 any adjoining jurisdiction as special state's attorney for that particular
13 matter.

56.910. 1. The state's attorney may appoint such full-time and
2 part-time assistant state's attorneys, and may employ such investigators
3 and stenographic and clerical help as the state's attorney deems
4 necessary for the proper discharge of the duties of the office of the
5 state's attorney, and may set their compensation within the limits of
6 the allocations made for that purpose by the county commissions. The
7 compensation for the assistant state's attorneys, investigators, and
8 stenographic and clerical help shall be paid in equal installments out
9 of the county treasuries in the same manner as the compensation for
10 other county employees.

11 2. All assistant state's attorneys, investigators, and stenographic
12 and clerical help shall hold office at the pleasure of the state's attorney.

56.915. 1. Except for the salary of the state's attorney as
2 provided under subsection 4 of section 56.900, salaries, expenses, and
3 overhead costs of all state's attorney offices shall be funded by the
4 respective counties which such offices serve subject to reimbursement
5 by the state of Missouri as described in this section.

6 2. For a state's attorney office in any jurisdiction consisting of
7 one county that has elected to participate in the state's attorney
8 system, the state shall reimburse the percentage of the office budget as
9 follows:

10 (1) Five percent beginning January 1, 2019, until December 31,
11 2019;

12 (2) Ten percent beginning January 1, 2020, until December 31,
13 2020;

14 (3) Fifteen percent beginning January 1, 2021, until December 31,
15 2021;

16 (4) Twenty percent beginning January 1, 2022, until December
17 31, 2022;

18 (5) Twenty-five percent beginning January 1, 2023, until
19 December 31, 2023;

20 (6) Thirty percent beginning January 1, 2024, until December 31,
21 2024;

22 (7) Thirty-five percent beginning January 1, 2025, until
23 December 31, 2025;

24 (8) Forty percent beginning January 1, 2026, until December 31,
25 2026;

26 **(9) Forty-five percent beginning January 1, 2027, until December**
27 **31, 2027;**

28 **(10) Fifty percent beginning January 1, 2028, and all subsequent**
29 **years.**

30 **3. For state's attorney offices in jurisdictions consisting of two**
31 **or more participating counties, the state shall reimburse the**
32 **percentage of the office budget as follows:**

33 **(1) Ten percent beginning January 1, 2019, until December 31,**
34 **2019;**

35 **(2) Twenty percent beginning January 1, 2020, until December**
36 **31, 2020;**

37 **(3) Thirty percent beginning January 1, 2021, until December 31,**
38 **2021;**

39 **(4) Forty percent beginning January 1, 2022, until December 31,**
40 **2022;**

41 **(5) Fifty percent beginning January 1, 2023, and all subsequent**
42 **years.**

43 **4. The office of administration shall make payment for the**
44 **reimbursement from appropriations made for that purpose on or before**
45 **July fifteenth of each year following the calendar year in which such**
46 **expenses by the counties were paid. In circuits where more than one**
47 **county contributed to payment of the expenses of the office of state's**
48 **attorney, each of the counties shall be reimbursed in the same**
49 **proportion as its contribution.**

56.920. Except in the performance of special prosecutions or
2 **otherwise representing the state or its political subdivisions, the state's**
3 **attorney shall devote full time to the office, and shall not engage in the**
4 **practice of law.**

56.925. 1. For counties not having a charter form of government
2 **to join the state's attorney system, the county commission shall adopt**
3 **by majority vote a resolution to join the state's attorney system and**
4 **such resolution shall be in substantially the following form:**

5 **"The county commission for County hereby certifies**
6 **that it has met and voted to join the state's attorney system and**
7 **thereby eliminate the office of prosecuting attorney."**

8 **2. For counties with a charter form of government to join the**
9 **state's attorney system, the governing body shall adopt by charter**

10 amendment a provision to join the state's attorney system and
11 eliminate the office of prosecuting attorney.

12 3. The resolution provided for in subsection 1 of this section
13 shall be transmitted to the secretary of state at least twelve months in
14 advance of the next general election at which state's attorneys shall be
15 elected and such election shall be irrevocable once such resolution is
16 transmitted.

17 4. Except as otherwise provided, no office of prosecuting
18 attorney shall cease to exist except upon the election and qualification
19 of a state's attorney for any county in the judicial circuit that has
20 adopted a resolution under this section.

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Bill

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