

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 9
100TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, February 21, 2019, with recommendation that the Senate Committee Substitute do pass.

0151S.06C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 106.020, 106.030, 106.040, 106.070, 106.080, 106.090, 106.100, 106.110, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, and to enact in lieu thereof fourteen new sections relating to impeachment trials, with a contingent effective date.

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

Section A. Sections 106.020, 106.030, 106.040, 106.070, 106.080, 106.090, 106.100, 106.110, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 106.020, 106.030, 106.040, 106.070, 106.080, 106.100, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, to read as follows:

106.020. All elective executive officials of the state, judges of the supreme court, the court of appeals and circuit judges shall be liable to impeachment for [crime, misconduct, habitual drunkenness, willful neglect of duty, corruption in office, incompetency, or any offense involving moral turpitude, or oppression] **corruption or crime** in office.

106.030. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried before the [supreme court, except that the governor or a member of the supreme court shall be tried by a special commission as provided for in sections 106.020 to 106.210] **senate, and when the governor or lieutenant governor shall be tried, the chief justice of the supreme court shall preside.**

106.040. When the house of representatives shall be satisfied that there

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

2 is good cause to impeach any officer, they shall cause articles of impeachment to
3 be made out in due form against such officer and shall transmit the same to the
4 [supreme court] **senate**, and immediately elect managers to prosecute such
5 impeachment[; provided, however, that in the case of impeachment of the
6 governor or a member of the supreme court, they shall transmit such articles of
7 impeachment to the senate who shall, without delay, proceed to the election of a
8 special commission to try such impeachment as provided in section 106.080. In
9 case of death, resignation or failure to serve, of any manager elected by the house
10 as aforesaid, the governor shall, if the house be not in session, fill such vacancy;
11 and the person thus appointed shall have the same power and perform the same
12 duties as if elected by the house].

106.070. When articles of impeachment shall be presented to the [supreme
2 court] **senate**, the [court] **senate** shall immediately appoint some day for the
3 appearance of the accused and cause a summons to be issued, signed by the [chief
4 justice of the court] **president of the senate, or the president pro tempore**
5 **of the senate if the lieutenant governor shall be impeached**, and
6 countersigned by [one of the judges thereof] **the secretary of the senate**, with
7 a copy of the articles of impeachment annexed, requiring the accused to appear
8 on the day appointed for that purpose, and answer the charges exhibited against
9 him **or her**, which shall be served by the [marshal of the court] **sergeant-at-**
10 **arms of the senate**, or by special messenger by the [court] **senate** appointed,
11 a reasonable time before the day set for his **or her** appearance.

106.080. If the governor or [a judge of the supreme court] **lieutenant**
2 **governor** shall be impeached, the [house of representatives shall immediately
3 transmit such articles of impeachment to the senate who shall, without delay,
4 proceed to the election of a special commission to try the cause, which commission
5 shall be composed of seven eminent jurists, who at the time of their election are
6 judges of the circuit or appellate courts of this state; provided, however, that
7 judges of the supreme court shall not be eligible to serve on such special
8 commission. The commission shall meet in the City of Jefferson within thirty
9 days after their election on a day designated by the senate] **chief justice of the**
10 **supreme court shall be notified by the president pro tempore of the**
11 **senate of such impeachment, and of the day when his or her attendance**
12 **shall be required, and the chief justice shall attend and preside at the**
13 **trial; and if he or she is sick and unable to attend, the next most senior**
14 **supreme court judge in terms of length of service on the court shall be**

15 **notified and shall preside at the trial.**

106.100. The [notices] **notice** as required by [sections] **section 106.070**
2 [and 106.090] shall be served on the accused personally, if he **or she** can be
3 found; and if he **or she** cannot be found, then by leaving a copy of such summons
4 and articles of impeachment at his **or her** dwelling house or usual place of abode,
5 with some member of the family above the age of fifteen years.

106.120. Upon the appearance of the accused, he **or she** shall have
2 reasonable time to answer the impeachment; and when the answer shall be filed,
3 the managers may reply thereto; and when issue shall be joined on any such
4 impeachment, the [court or commission] **senate** shall appoint a time for trial
5 thereof.

106.130. The president [of the commission] **of the senate** or the chief
2 justice of the supreme court **when the governor or lieutenant governor is**
3 **being tried**, as the case may be, on application of the respondent, or any of his
4 **or her** counsel, or either of the managers, shall issue subpoenas for witnesses
5 and commissions to take depositions where the witness is unable to attend from
6 sickness or other infirmity, or where the witness is without the state.

106.150. If the accused shall not appear after being notified, or, after
2 appearing shall fail to answer, the [court or commission] **senate** may proceed ex
3 parte.

106.160. At the time and place appointed for trial, and before proceeding
2 thereon, [some person authorized by law so to do] **the president of the senate**
3 **or the chief justice of the supreme court** shall administer to the [members
4 of the special commission, in cases of impeachment of the governor or a judge of
5 the supreme court, or to the judges of the supreme court, in cases of
6 impeachments of other officers] **members of the senate, and the secretary**
7 **shall at the same time administer to the president or chief justice**, an
8 oath or affirmation impartially to try and determine the charges and to do justice
9 according to the law and the evidence; and no member shall sit or give his **or her**
10 vote until he **or she** shall have taken such oath or affirmation.

106.170. The members being sworn, the [supreme court or the special
2 commission, as the case may be,] **senate** shall proceed to hear, try and determine
3 such impeachment, and may adjourn the trial to any other time; and the [court
4 or commission] **president of the senate or chief justice** shall determine all
5 questions of law arising during the trial upon the admissibility of evidence, the
6 competency of witnesses, or otherwise, and may punish any person for contempt

7 committed toward it, or for obstructing the administration of justice on such trial,
8 in as full a manner as any court of record could do for like contempt toward such
9 court. Except as otherwise provided in sections 106.020 to 106.210, the rules of
10 evidence and procedure applicable in civil actions before circuit judges in the
11 circuit courts of this state shall be followed in all trials of impeachment [whether]
12 before the [supreme court or the special commission] **senate**.

106.180. In all such trials the accused shall have a right to be heard by
2 himself **or herself** and his **or her** counsel, and all matters relating to procedure
3 and the conduct of the trial shall be determined by a majority vote of the [judges
4 or commissioners] **senate** and shall be entered and made a part of the record of
5 the proceeding; but no judgment or sentence of conviction shall be given against
6 any person upon any impeachment without concurrence of [five-sevenths of the
7 judges of the supreme court or of the members of the special commission] **at**
8 **least two-thirds of all senators elected**.

106.200. The [supreme court or special commission, as the case may be,]
2 **senate** shall cause a transcript of the proceedings had on any impeachment to
3 be made out, and the judgment of the [court or commission] **senate**, whether of
4 conviction or acquittal, which shall be signed by the officer presiding at the trial
5 and attested by the secretary of the [commission or a judge of the court hearing
6 the cause] **senate** and deposited in the office of the secretary of state.

106.210. All writs by the [court or commission] **senate** shall run in the
2 name of the state of Missouri, shall be subscribed by the presiding officer and
3 countersigned by [a judge of the supreme court or in cases of impeachment of the
4 governor or a judge of the supreme court, by the secretary of the commission] **the**
5 **secretary of the senate**, and shall be served by the [marshal of the court]
6 **sergeant-at-arms of the senate** or by a special messenger appointed for that
7 purpose.

[106.090. Immediately upon meeting, the commission shall
2 proceed to organize by electing a president and a secretary and
3 thereupon shall designate some day not less than twenty days nor
4 more than thirty days after the service of the summons for the
5 appearance of the accused and cause a summons to be issued,
6 signed by the president of the commission and countersigned by the
7 secretary thereof, with a copy of the articles of impeachment
8 annexed, requiring the accused to appear on the day designated for
9 that purpose, and answer charges exhibited against him, which

10 shall be served by a messenger appointed by the commission, a
11 reasonable time before the day set for his appearance. The
12 commission shall have power to employ such clerical help and
13 assistants as they may deem necessary to the proper conduct of the
14 trial.]

[106.110. Each member of the special commission, provided
2 for in section 106.080, shall be allowed an amount not to exceed ten
3 dollars per day for actual and necessary expenses incurred in the
4 performance of his duties, which allowance shall be in lieu of all
5 other compensation for such service.]

Section B. Section A of this act shall become effective only upon approval
2 by the voters of an amendment to article VII of the Constitution of Missouri that
3 modifies which entities are authorized to try impeachments of public officials.

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Bill

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