

FIRST REGULAR SESSION

SENATE BILL NO. 290

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

1344S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 115.642, RSMo, and to enact in lieu thereof two new sections relating to the prosecution of election offenses.

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

Section A. Section 115.642, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 115.642 and 115.648, 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 **attorney general or to the**
21 appropriate prosecuting attorney **or circuit 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] **subdivision**, the secretary of
42 state may seek to enforce the subpoena before a court of
43 competent jurisdiction to require the production of books,
44 papers, correspondence, memoranda, contracts, agreements,
45 and other records. The court may issue an order requiring
46 the person 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.

51 5. An election authority may refer to the attorney
52 general or to the appropriate prosecuting attorney or
53 circuit attorney any alleged violation of sections 115.629
54 to 115.646.

 115.648. 1. The attorney general shall have
2 concurrent jurisdiction with any prosecuting attorney or
3 circuit attorney to prosecute under this section.

4 2. Upon receiving a referral from the secretary of
5 state or an election authority alleging a violation of
6 sections 115.629 to 115.646, the attorney general may
7 commence prosecution of any violations of said sections
8 within sixty days by filing a complaint, information, or
9 indictment. Once the attorney general commences prosecution
10 pursuant to this section, he or she may prosecute any
11 additional violations that were part of the same course of
12 conduct as the violation of sections 115.629 to 115.646.

13 3. If a prosecuting attorney or circuit attorney has
14 commenced prosecution of any violation of sections 115.629
15 to 115.646 by filing a complaint, information, or
16 indictment, the attorney general may adopt or amend the
17 complaint, information, or indictment and the prosecuting
18 attorney or circuit attorney shall immediately withdraw from
19 the prosecution.

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