

FIRST REGULAR SESSION

HOUSE BILL NO. 852

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PACE.

0038L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 56.110, RSMo, and to enact in lieu thereof one new section relating to recusal of 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Section A. Section 56.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 56.110, to read as follows:

56.110. **1.** If the prosecuting attorney and assistant prosecuting attorney be interested or shall have been employed as counsel in any case where such employment is inconsistent with the duties of his or her office, or shall be related to the defendant in any criminal prosecution, either by blood or by marriage, the court having criminal jurisdiction may appoint some other attorney to prosecute or defend the cause. Such special prosecutor shall not otherwise represent a party other than the state of Missouri in any criminal case or proceeding in that circuit for the duration of that appointment and shall be considered an appointed prosecutor for purposes of section 56.360.

2. Notwithstanding any provision of law, a person may file an affidavit under oath with the clerk of the court having jurisdiction of the matter to have a judge appoint a special prosecutor to determine if a prosecuting attorney should recuse himself or herself if such attorney's impartiality might reasonably be questioned on a potential case or current case in which he or she is prosecuting.

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EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.