

FIRST EXTRAORDINARY SESSION OF THE  
SECOND REGULAR SESSION

# HOUSE BILL NO. 36

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHAWAN.

5863H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 27.060, RSMo, and to enact in lieu thereof one new section relating to intervention in certain court cases, with an emergency clause.

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

Section A. Section 27.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 27.060, to read as follows:

27.060. **1.** The attorney general shall institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state's interests are involved.

**2. (1) The attorney general shall have authority to intervene as of right in any civil or criminal case, without regard to whether the case relates to one or more offenses designated as infractions, misdemeanors, or felonies, and without regard to any penalty that may be imposed, if the prosecutor in such civil or criminal case is currently under investigation by one or more local, state, or federal authorities for a violation of statutory or constitutional rights of a defendant in any criminal case that is under such prosecutor's jurisdiction.**

**(2) In such a civil or criminal case, the attorney general shall have absolute authority to enter into any plea arrangement or to request that the court dismiss the case,**

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.

16 provided that such an action is in the interest of justice. The attorney general shall retain  
17 this authority until a final judgment is rendered in the case and all appeals have been  
18 exhausted.

19 3. (1) The governor may order private counsel to act on behalf of the state in any  
20 civil or criminal case, without regard to whether the case relates to one or more offenses  
21 designated as infractions, misdemeanors, or felonies, and without regard to any penalty  
22 that may be imposed, if the prosecutor in such civil or criminal case is currently under  
23 investigation by one or more local, state, or federal authorities for a violation of statutory  
24 or constitutional rights of a defendant in any criminal case that is under such prosecutor's  
25 jurisdiction.

26 (2) In such a civil or criminal case, the private counsel shall have absolute authority  
27 to enter into any plea arrangement or to request that the court dismiss the case, provided  
28 that such an action is in the interest of justice. The private counsel shall retain this  
29 authority until a final judgment is rendered in the case and all appeals have been  
30 exhausted.

31 4. The existence of a local, state, or federal investigation of a prosecutor relating to  
32 an act or omission that is the basis for a criminal charge by the prosecutor against a  
33 defendant shall create a presumption that a request made by the attorney general or  
34 private counsel under this section to dismiss the charge, or to enter into a plea deal relating  
35 to the charge, is in the interest of justice. The attorney general or private counsel may seek  
36 dismissal, or enter into a plea deal, with respect to any charge against a defendant without  
37 providing proof that the specific charge is connected to the prosecutor's possible violation  
38 of any particular statutory or constitutional right of the defendant.

39 5. The provisions of this section shall apply notwithstanding any other provision  
40 of law to the contrary, and shall not be construed to limit in any way the governor's power  
41 to pardon after conviction under Article IV, Section 7 of the Constitution of Missouri.

Section B. Because immediate action is necessary to protect the constitutional and  
2 statutory rights of the citizens of this state, section A of this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be  
5 in full force and effect upon its passage and approval.

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