

Senate Bill 115

A bill to amend 1846 RS 14, entitled
"Of county officers,"
by amending section 60 (MCL 49.160).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 60. (1) If the prosecuting attorney of a county ~~is~~
2 DETERMINES HIMSELF OR HERSELF TO BE disqualified by reason of
3 conflict of interest or is otherwise unable to attend to the
4 duties of the office, ~~the supreme court, the court of appeals or~~
5 ~~the circuit court for that county, upon a finding to that effect~~
6 ~~by the court, may appoint an attorney at law as~~ HE OR SHE SHALL
7 FILE WITH THE ATTORNEY GENERAL A PETITION STATING THE CONFLICT OR
8 THE REASON HE OR SHE IS UNABLE TO SERVE AND REQUESTING THE
9 APPOINTMENT OF a special prosecuting attorney to perform the

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10 duties of the prosecuting attorney ~~in the respective court~~ in
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1 any matter in which the prosecuting attorney is disqualified or
2 until ~~such time as~~ the prosecuting attorney is able to serve.

3 (2) If the ~~prosecuting attorney of a county is disqualified~~
4 ~~by reason of conflict of interest or is otherwise unable to~~
5 ~~attend to the duties of the office, the circuit court for that~~
6 ~~county, upon a finding to that effect by the court, may appoint~~
7 ~~an attorney at law~~ ATTORNEY GENERAL DETERMINES THAT A PROSECUT-
8 ING ATTORNEY IS DISQUALIFIED OR OTHERWISE UNABLE TO SERVE, THE
9 ATTORNEY GENERAL MAY ELECT TO PROCEED IN THE MATTER OR MAY
10 APPOINT A PROSECUTING ATTORNEY OR ASSISTANT PROSECUTING ATTORNEY
11 WHO CONSENTS TO THE APPOINTMENT TO ACT as a special prosecuting
12 attorney to perform the duties of the prosecuting attorney ~~in~~
13 ~~the probate court, the district court, or any other court within~~
14 ~~the county~~ in any matter in which the prosecuting attorney is
15 disqualified or until ~~such time as~~ the prosecuting attorney is
16 able to serve.

17 (3) A special prosecuting attorney appointed under this sec-
18 tion is vested with all of the powers of the prosecuting attorney
19 for the purpose of the appointment and during the period of
20 appointment[, INCLUDING THE POWER TO INVESTIGATE AND INITIATE CHARGES].
THE COST OF PROSECUTION, OTHER THAN PERSONNEL
21 COSTS, IN ANY MATTER HANDLED BY A SPECIAL PROSECUTING ATTORNEY
22 SHALL BE BORNE BY THE OFFICE OF THE PROSECUTING ATTORNEY WHO HAS
23 BEEN DETERMINED TO BE DISQUALIFIED OR OTHERWISE UNABLE TO SERVE.

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1 (4) This section ~~shall~~ DOES not apply if an assistant
2 prosecuting attorney has been or can be appointed by the prose-
3 cuting attorney pursuant to section 18 of chapter 16 of ~~Act~~
4 ~~No. 175 of the Public Acts of 1927, being section 776.18 of the~~
5 ~~Michigan Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA
6 175, MCL 776.18, to perform the necessary duties within the con-
7 straints of that section or if an assistant prosecuting attorney
8 has been otherwise appointed by the prosecuting attorney pursuant
9 to law and is not disqualified from acting in place of the prose-
10 cuting attorney.

[Enacting section 1. This amendatory act takes effect February 1,
2003.]