

FIRST REGULAR SESSION

HOUSE BILL NO. 352

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), BROWN (30) AND NIEVES (Co-sponsors).

Read 1st time January 26, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0828L.011

AN ACT

To amend chapter 56, RSMo, by adding thereto one new section relating to prosecuting and circuit attorneys' power to dismiss charges.

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

Section A. Chapter 56, RSMo, is amended by adding thereto one new section, to be
2 known as section 56.087, to read as follows:

**56.087. 1. The prosecuting or circuit attorney has the power, in his or her
2 discretion, to dismiss a complaint, information, or indictment, or any count or counts
3 thereof, and in order to exercise that power it is not necessary for the prosecutor or circuit
4 attorney to obtain the consent of the court. The dismissal may be made orally by the
5 prosecuting or circuit attorney in open court, or by a written statement of the dismissal
6 signed by the prosecuting or circuit attorney and filed with the clerk of court.**

**7 2. A dismissal filed by the prosecuting or circuit attorney prior to the time double
8 jeopardy has attached is without prejudice. A dismissal filed by the prosecuting or circuit
9 attorney after double jeopardy has attached is with prejudice, unless the criminal
10 defendant has consented to having the case dismissed without prejudice.**

**11 3. A dismissal without prejudice means that the prosecutor or circuit attorney has
12 complete discretion to refile the case, as long as it is refiled within the time specified by the
13 applicable statute of limitations. A dismissal with prejudice means that the prosecutor or
14 circuit attorney cannot refile 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.

15 **4. For the purposes of this section, double jeopardy attaches in a jury trial when**
16 **the jury has been impaneled and sworn. It attaches in a court-tried case when the court**
17 **begins to hear evidence.**