

January 22, 1962

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Honorable Dan Hale
Prosecuting Attorney
Buchanan County
St. Joseph, Missouri

Dear Mr. Hale:

We are in receipt of your letter of recent date in which you ask whether the wife of an attorney can qualify as a surety on a bail bond. As pointed out in your letter, Rule 32.14 of the Missouri Supreme Court Rules of Criminal Procedure prohibits attorneys at law from being bail bond sureties. Rule 32.15 of the Missouri Supreme Court Rules of Civil Procedure requires that sureties, in order to qualify as such on the basis of real estate owned, must be the sole, legal and equitable owner in fee simple of the real estate involved.

Section 451.250, RSMo 1959, paragraph 1, provides:

"1. All real estate and any personal property, including rights in action, belonging to any woman at her marriage, or which may have come to her during coverture, by gift, bequest or inheritance, or by purchase with her separate money or means, or be due as the wages of her separate labor, or has grown out of any violation of her personal rights, shall, together with all income, increase and profits thereof, be and remain her separate property and under her sole control, and shall not be liable to be taken by any process of law for the debts of her husband."

Under the foregoing statute a married woman can own property as the sole, legal and equitable owner in fee

simple thereof. Such property put up by her as security for a bail bond would be a proper basis for the bond. Her husband, if an attorney, would have no interest in the property; therefore the prohibition of Rule 32.14 would be inapplicable.

Yours truly,

THOMAS F. EAGLETON
Attorney General

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