

ASSESSORS:
NEPOTISM:

A county assessor does not violate the provisions of Article VII, Section 6 of the Missouri Constitution by employing the daughter of the sister of the assessor's brother's wife.

OPINION NO. 215-2001

November 5, 2001

Honorable Danny Staples
State Senator, District 20
State Capitol Building, Room 418
Jefferson City, MO 65101

Dear Senator Staples:

You have submitted the following question to this office: “Whether a county assessor can employ his brother’s wife’s sister’s daughter in the county assessor’s office without violating the provisions of Article VII, Section 6 of the Missouri Constitution?”

In the information you submitted, you advised us that the proposed employee has seniority for pay purposes through previous county employment; but the seniority rights will lapse unless she is hired quickly. The assessor does not plan on employing the proposed employee until it is determined that no violation of Article VII, Section 6 of the Missouri Constitution will occur.

Article VII, Section 6 of the Missouri Constitution provides: “Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.”

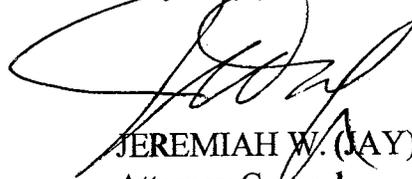
The individual seeking employment is the niece of the assessor’s brother’s wife. We have previously addressed this relationship in Opinion No. 189-80, a copy of which is attached. In that opinion we concluded that based upon the principles set forth in *State v. Thomas*, 174 S.W.2d 337 (Mo. 1943) there is no relationship between a circuit clerk and the niece of the wife of the brother of the circuit clerk and, therefore, no prohibition against the circuit clerk employing that person. Because the constitutional prohibition against nepotism makes no distinction between office holders, the same conclusion applies to this situation.

Honorable Danny Staples
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CONCLUSION

A county assessor does not violate the provisions of Article VII, Section 6 of the Missouri Constitution by employing the daughter of the sister of the assessor's brother's wife.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Attachment: Opinion No. 189-80