

By Senator Bracy

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1 A bill to be entitled
2 An act relating to the Statewide Council on
3 Prosecutorial Misconduct; creating s. 16.71, F.S.;
4 defining terms; creating the Statewide Council on
5 Prosecutorial Misconduct within the Department of
6 Legal Affairs; stating the purpose of the council;
7 providing for membership, organization, support, and
8 duties; requiring the council to submit an annual
9 report to the Governor, Legislature, and Chief Justice
10 of the Supreme Court; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Section 16.71, Florida Statutes, is created to
15 read:

16 16.71 Statewide Council on Prosecutorial Misconduct.-

17 (1) DEFINITIONS.-As used in this section, the term:

18 (a) "Prosecutor" means any state attorney or his or her
19 designee or any assistant state attorney or special assistant
20 state attorney.

21 (b) "Prosecutorial misconduct" means a violation of
22 applicable statutes or rules relating to the conduct of a
23 prosecutor during the performance of the prosecutor's official
24 duties.

25 (2) CREATION.-There is created the Statewide Council on
26 Prosecutorial Misconduct, a council as defined in s. 20.03,
27 within the Department of Legal Affairs. The council is created
28 for the purpose of providing recommendations and findings
29 relating to prosecutorial misconduct to the Department of Lawyer

11-00092-20

2020262__

30 Regulation within The Florida Bar and to the Chief Justice of
 31 the Supreme Court. Except as otherwise provided in this section,
 32 the council shall operate in a manner consistent with s. 20.052.

33 (3) MEMBERSHIP.—

34 (a) The council shall consist of:

35 1. Four prosecutors, of which:

36 a. One is appointed by the Governor;

37 b. Two are appointed by the President of the Senate; and

38 c. One is appointed by the Speaker of the House of

39 Representatives;

40 2. Four public defenders or assistant public defenders, of
 41 which:

42 a. One is appointed by the Governor;

43 b. Two are appointed by the Speaker of the House of

44 Representatives; and

45 c. One is appointed by the President of the Senate;

46 3. A district court of appeal judge appointed by the

47 Governor; and

48 4. Two county or circuit court judges appointed by the

49 Governor.

50 (b) Each member shall be appointed to a 4-year term.

51 However, for the purpose of achieving staggered terms, the terms
 52 of the initial members appointed to the council are:

53 1. 4 years for members appointed by the Governor;

54 2. 3 years for members appointed by the President of the

55 Senate; and

56 3. 2 years for members appointed by the Speaker of the

57 House of Representatives.

58 (c) Any vacancy shall be filled in the same manner as the

11-00092-20

2020262__

59 original appointment for the remainder of the unexpired term.

60 (d) The members of the council shall elect a chair every 2
61 years, to serve for a 2-year term. As deemed appropriate, other
62 officers may be elected by the members.

63 (e) If a council member is the subject of a complaint or
64 investigation, he or she is disqualified from participating in
65 any proceedings with respect to such complaint or investigation.

66 (4) ORGANIZATION AND SUPPORT.—

67 (a) The council must meet at least quarterly. Additional
68 meetings may be held when determined by the chair. Council
69 meetings may be conducted by conference call, teleconferencing,
70 or similar technology.

71 (b) Eight members constitute a quorum.

72 (c) The Department of Legal Affairs shall provide the
73 council with the staff necessary to assist the council in the
74 performance of its duties.

75 (5) DUTIES.—The council shall:

76 (a) Review complaints submitted to the Department of Legal
77 Affairs which allege that a prosecutor has engaged in
78 prosecutorial misconduct. The department shall develop a form
79 for such complaints. Any person may submit such complaint to the
80 Department of Legal Affairs.

81 (b) Investigate any credible reports of prosecutorial
82 misconduct.

83 (c) At the completion of each investigation, create a
84 written report of the council's findings and recommendations and
85 submit the report to the Department of Lawyer Regulation within
86 The Florida Bar and to the Chief Justice of the Supreme Court.

87 (6) REPORT.—By January 14 of each year, the council shall

11-00092-20

2020262__

88 submit a report to the Governor, the President of the Senate,
89 the Speaker of the House of Representatives, and the Chief
90 Justice of the Supreme Court summarizing the council's
91 recommendations and findings during the previous calendar year.

92 Section 2. This act shall take effect July 1, 2020.