

By Senator Bracy

11-00503-21

2021434__

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 the council's membership, organization,
8 support, and duties; requiring the council to submit
9 an annual report to the Governor, the Legislature, and
10 the Chief Justice of the Supreme Court; providing an
11 effective date.

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

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

17 16.71 Statewide Council on Prosecutorial Misconduct.-

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

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

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

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

11-00503-21

2021434__

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

34 (3) MEMBERSHIP.—

35 (a) The council shall consist of:

36 1. Four prosecutors, of which:

37 a. One is appointed by the Governor;

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

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

40 Representatives;

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

43 a. One is appointed by the Governor;

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

45 Representatives; and

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

47 3. A district court of appeal judge appointed by the
48 Governor; and

49 4. Two county or circuit court judges appointed by the
50 Governor.

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

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

54 1. Four years for members appointed by the Governor;

55 2. Three years for members appointed by the President of
56 the Senate; and

57 3. Two years for members appointed by the Speaker of the
58 House of Representatives.

11-00503-21

2021434__

59 (c) Any vacancy shall be filled in the same manner as the
60 original appointment for the remainder of the unexpired term.

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

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

67 (4) ORGANIZATION AND SUPPORT.—

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

72 (b) Eight members constitute a quorum.

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

76 (5) DUTIES.—The council shall:

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

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

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

11-00503-21

2021434__

88 (6) REPORT.—By January 14 of each year, the council shall
89 submit a report to the Governor, the President of the Senate,
90 the Speaker of the House of Representatives, and the Chief
91 Justice of the Supreme Court summarizing the council's
92 recommendations and findings during the previous calendar year.

93 Section 2. This act shall take effect July 1, 2021.