

By Senator Bracy

11-01551-22

20221174\_\_

1                   A bill to be entitled  
2           An act relating to the Statewide Council on  
3           Prosecutorial Misconduct; creating s. 16.81, 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 16.81, Florida Statutes, is created to  
16          read:

17           16.81 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(7),  
28          within the Department of Legal Affairs. The council is created  
29          for the purpose of providing recommendations and findings

11-01551-22

20221174\_\_

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 the following members,  
36 including:

37 1. Four prosecutors, of whom:

38 a. One is appointed by the Governor;

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

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

41 Representatives;

42 2. Four public defenders or assistant public defenders, of  
43 whom:

44 a. One is appointed by the Governor;

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

46 Representatives; and

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

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

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

52 (b) Each member shall be appointed to a 4-year term.  
53 However, for the purpose of achieving staggered terms, the terms  
54 of the initial members appointed to the council are:

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

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

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

11-01551-22

20221174\_\_

59 House of Representatives.

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

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

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

68 (4) ORGANIZATION AND SUPPORT.—

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

73 (b) Eight members constitute a quorum.

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

77 (5) DUTIES.—The council shall:

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

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

85 (c) At the completion of each investigation, create a  
86 written report of the council's findings and recommendations and  
87 submit the report to the Department of Lawyer Regulation within

11-01551-22

20221174\_\_

88 The Florida Bar and to the Chief Justice of the Supreme Court.

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

94 Section 2. This act shall take effect July 1, 2022.