

By Senator Diaz

36-01445B-22

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1                   A bill to be entitled  
2       An act relating to duties of state attorneys; amending  
3       s. 27.14, F.S.; providing that a state attorney's  
4       neglect of duty may serve as a basis for an  
5       investigation, a case, or a matter to be reassigned to  
6       another judicial circuit; creating s. 112.39, F.S.;  
7       providing the duties of state attorneys; requiring  
8       state attorneys to exercise prosecutorial discretion  
9       on a case-specific basis in a specified manner;  
10      providing that a state attorney adopting certain  
11      blanket policies constitutes a failure to execute his  
12      or her duty; requiring the state attorney to provide a  
13      specified written response, upon the Governor's  
14      request; specifying the actions by a state attorney  
15      which constitute neglect of duty for purposes relating  
16      to executive suspensions; providing an effective date.

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

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20       Section 1. Subsection (1) of section 27.14, Florida  
21       Statutes, is amended to read:

22       27.14 Assigning state attorneys to other circuits.—

23       (1) If any state attorney is disqualified to represent the  
24       state in any investigation, case, or matter pending in the  
25       courts of his or her circuit or if, for any other good and  
26       sufficient reason, including, but not limited to, the neglect of  
27       duty of such state attorney, the Governor determines that the  
28       ends of justice would be best served, the Governor may, by  
29       executive order filed with the Department of State, either order

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30 an exchange of circuits or of courts between such state attorney  
31 and any other state attorney or order an assignment of any state  
32 attorney to discharge the duties of the state attorney with  
33 respect to one or more specified investigations, cases, or  
34 matters, specified in general in the executive order of the  
35 Governor. Any exchange or assignment of any state attorney to a  
36 particular circuit shall expire 12 months after the date of  
37 issuance, unless an extension is approved by order of the  
38 Supreme Court upon application of the Governor showing good and  
39 sufficient cause to extend such exchange or assignment.

40 Section 2. Section 112.39, Florida Statutes, is created to  
41 read:

42 112.39 Suspension of state attorneys for neglect of duty.-

43 (1) It is the duty of the state attorney to faithfully  
44 enforce the criminal laws of this state. In executing this duty,  
45 the state attorney may exercise prosecutorial discretion by  
46 making, or directing his or her subordinates to make, case-  
47 specific determinations as to whether the facts of each case in  
48 the judicial circuit justify prosecution. The adoption of a  
49 blanket policy, whether verbal or in writing, to not prosecute  
50 any type of offense, including a capital offense; to downgrade  
51 charges for any type of offense; or to not seek an otherwise  
52 authorized sentence for any type of offense, including, but not  
53 limited to, prison or the death penalty, constitutes the state  
54 attorney's failure to faithfully enforce the criminal laws of  
55 this state.

56 (2) It is the duty of the state attorney, upon request of  
57 the Governor, to promptly provide information in writing on any  
58 subject relating to the execution of the duty to faithfully

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59 enforce the criminal laws of this state as set forth in  
60 subsection (1), including, but not limited to, any policies,  
61 whether verbal or in writing, to not prosecute any type of  
62 offense, including a capital offense; to downgrade charges for  
63 any type of offense; or to not seek an otherwise authorized  
64 sentence for any type of offense, including, but not limited to,  
65 prison or the death penalty.

66 (3) A state attorney may be suspended from office by the  
67 Governor for neglect of duty, including, but not limited to, the  
68 state attorney's failure to faithfully enforce the criminal laws  
69 of this state as set forth in subsection (1), or the state  
70 attorney's failure to comply with a request made by the Governor  
71 as described in subsection (2).

72 Section 3. This act shall take effect July 1, 2022.