

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 4-B

INTRODUCER: Senator Martin

SUBJECT: Statewide Prosecutor

DATE: February 3, 2023

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	Yeatman	FP	<b>Favorable</b>

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**I. Summary:**

Current law authorizes the Office of Statewide Prosecution to investigate and prosecute a list of enumerated crimes if certain conditions are met. This bill removes election-related issues from that enumerated list, relocates them to a new paragraph, and more clearly delineates the election-related crimes over which the statewide prosecutor has concurrent jurisdiction with the state attorneys to prosecute.

The bill is effective upon becoming a law.

**II. Present Situation:**

The attorney general is the chief legal officer of the State of Florida.<sup>1</sup> The State Constitution establishes a position of statewide prosecutor within the Office of the Attorney General. The statewide prosecutor is appointed by the attorney general from a list of at least three persons nominated by the judicial nominating commission<sup>2</sup> for the Supreme Court<sup>3</sup> and serves a term of four years that run concurrently with the attorney general.<sup>4</sup> The statewide prosecutor:

- Must be an elector of the state;
- Must have been a member of The Florida Bar for the five years preceding appointment; and
- May not engage in the private practice of law during his or her service as statewide prosecutor.<sup>5</sup>

The State Constitution provides that the statewide prosecutor has concurrent jurisdiction with state attorneys to prosecute violations of criminal laws:

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<sup>1</sup> Art. IV, s. 4(b), FLA. CONST.

<sup>2</sup> The State Constitution specifies that there shall be a separate judicial nominating commission for the Supreme Court, each district court of appeal, and each judicial circuit for all trial courts within the circuit (Art. V, s. 11(d), FLA. CONST.).

<sup>3</sup> Art. IV, s. 4(b), FLA. CONST.

<sup>4</sup> Section 16.56(2), F.S.

<sup>5</sup> *Id.*

- Occurring, or having occurred, in two or more judicial circuits as part of a related transaction; or
- When any such offense is affecting or has affected two or more judicial circuits as provided by general law.<sup>6</sup>

The authority of the statewide prosecutor is further defined in statute, which creates an Office of Statewide Prosecution (office) in the Department of Legal Affairs.<sup>7</sup> Current law specifies a number of criminal offenses that the office may investigate and prosecute if:

- Such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction; or
- Such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.<sup>8</sup>

That list of offenses includes any crime involving voter registration, voting, or candidate or issue petition activities.<sup>9</sup> An information or indictment charging any of the enumerated offenses must state the judicial circuits and counties in which crimes are alleged to have occurred or the judicial circuits and counties in which crimes affecting such circuits or counties are alleged to have been connected with an organized criminal conspiracy.

Current law also authorizes the office to investigate and prosecute any of the enumerated crimes if it is facilitated by or connected to the use of the Internet. Any such crime is considered a crime occurring in every judicial circuit within the state.<sup>10</sup>

### III. Effect of Proposed Changes:

The bill removes any crime involving voter registration, voting, or candidate or issue petition activities from the enumerated list of offenses and creates a new paragraph specifying the authority of the office for election-related crimes. Specifically, the bill authorizes the office to investigate and prosecute any crime involving the following activities if certain conditions are met:

- Voting in an election in which a candidate for a federal or state office is on the ballot;
- Voting in an election in which a referendum, an initiative, or an issue is on the ballot;
- The petition activities of a candidate for a federal or state office;
- The petition activities for a referendum, an initiative, or an issue;
- Voter registration; or
- Any attempt, solicitation, or conspiracy to commit any of the crimes enumerated above.

The bill provides that the office has the power to investigate and prosecute such election-related crimes only if:

- Such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction; or

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<sup>6</sup> Art. IV, s. 4(b), FLA. CONST.

<sup>7</sup> Section 16.56(1), F.S.

<sup>8</sup> Section 16.56(1)(a), F.S.

<sup>9</sup> Section 16.56(1)(a)13., F.S.

<sup>10</sup> Section 16.56(1)(b), F.S.

- Such offense is affecting, or has affected, two or more judicial circuits.

The bill requires an information or indictment charging one of the enumerated election-related offenses to state the judicial circuits and counties in which crimes are alleged to have occurred or the judicial circuits and counties which the crimes are alleged to have affected.

As a conforming change, the bill provides that the authority of the office to investigate and prosecute any enumerated crime that is facilitated by or connected to the use of the Internet also applies to the new paragraph containing election-related offenses.

The bill is effective upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Art. IV, s. 4(b) of the State Constitution allows the Legislature to provide by general law the criminal offenses affecting or having affected two or more judicial circuits that are subject to the jurisdiction of the statewide prosecutor.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 16.56 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.