

PROSECUTION COUNCIL AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill makes changes to the Utah Prosecution Council.

Highlighted Provisions:

This bill:

- ▶ adds two city prosecutors to the council;
- ▶ provides for an approval procedure for certain members;
- ▶ allows for the appointment of resource prosecutors and sets qualifications; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 67-5a-1**, as last amended by Laws of Utah 2018, Chapter 200
- 67-5a-2**, as last amended by Laws of Utah 2001, Chapter 131
- 67-5a-4**, as enacted by Laws of Utah 1990, Chapter 136
- 67-5a-5**, as enacted by Laws of Utah 1990, Chapter 136
- 67-5a-6**, as enacted by Laws of Utah 1990, Chapter 136
- 67-5a-7**, as last amended by Laws of Utah 1997, Chapter 354



28

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **67-5a-1** is amended to read:

31 **67-5a-1. Utah Prosecution Council -- Duties -- Membership.**

32 (1) There is created within the Office of the Attorney General the Utah Prosecution

33 Council, referred to as the council in this chapter.

34 (2) The council shall:

35 (a) (i) provide training and continuing legal education for state and local prosecutors;

36 and

37 (ii) ensure that any training or continuing legal education described in Subsection

38 (2)(a)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

39 (b) provide assistance to local prosecutors; ~~and~~

40 ~~and~~ **(c) as funds are available and as are budgeted for this purpose, provide**

40a **reimbursement**

41 **for unusual expenses related to prosecution for violations of state laws** ~~and~~ **(d)** ~~provide training and assistance to law enforcement officers, as required~~

42 ~~elsewhere~~

42a ~~within this code.~~

43 within this code.

44 (3) The council shall be composed of ~~10~~ 12 members, selected as follows:

45 (a) the attorney general or a designated representative;

46 (b) the commissioner of public safety or a designated representative;

47 (c) four currently serving county or district attorneys designated by the county or

48 district attorneys' section of the Utah Association of Counties; ~~[a county or district attorney's~~

49 ~~term expires when a successor is designated by the county or district attorneys' section or when~~

50 ~~he is no longer serving as a county attorney or district attorney, whichever occurs first;]~~

51 (d) ~~two~~ four city prosecutors designated as follows:

52 (i) two by the Utah Municipal Attorneys Association; ~~[a city prosecutor's term expires~~

53 ~~when a successor is designated by the association or when he is no longer employed as a city~~

54 ~~prosecutor, whichever occurs first;] and~~

55 (ii) two by the Utah Misdemeanor Prosecutors Association.

56 (e) the chair of the Board of Directors of the Statewide Association of Prosecutors and

57 Public Attorneys of Utah; and

58 (f) the chair of the governing board of the Utah Prosecutorial Assistants Association.

59 (4) Council members designated in Subsections (3)(c) and (3)(d) shall be approved by
60 a majority vote of currently serving council members.

61 (5) A county or district attorney's term expires when a successor is designated by the
62 county or district attorneys' section or when the county or district attorney is no longer serving
63 as a county attorney or district attorney, whichever occurs first.

64 (6) A city prosecutor's term expires when a successor is designated by the association
65 or when the city prosecutor is no longer employed as a city prosecutor, whichever occurs first.

66 Section 2. Section **67-5a-2** is amended to read:

67 **67-5a-2. Terms -- Filling vacancies -- Chair.**

68 (1) The term of each council member is four years, unless the term is earlier terminated
69 by:

70 (a) the authority that designated the member; [or]

71 (b) the member ceasing to hold the office that qualified [him] the member for
72 membership; or

73 (c) voluntary resignation.

74 (2) A member whose term has expired may continue, for not more than four months, to
75 serve as a council member until a successor is selected and [qualified] approved.

76 (3) Council members may serve for more than one successive term.

77 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
78 appointed for a full term that commences on the date of [appointment] council approval. The
79 vacancy shall be filled according to the provisions of Section 67-5a-1.

80 (5) The council shall elect by a majority vote one of its members as chair at its first
81 meeting and then annually.

82 Section 3. Section **67-5a-4** is amended to read:

83 **67-5a-4. Holding public employment.**

84 A member of the council may not be disqualified as a member by holding any public
85 office or employment, and [he] does not forfeit any office or employment due to [his]
86 membership on the council. This section takes precedence over any conflicting state law, local
87 ordinance, or city charter.

88 Section 4. Section **67-5a-5** is amended to read:

89 **67-5a-5. Quorum -- Meetings.**

90 (1) The attendance of [~~five~~] six members at any regular or special meeting of the
91 council constitutes a quorum. Any member may designate in writing a representative to attend
92 any meeting. The representative's attendance shall be counted toward the quorum, and [~~he~~] the
93 representative may vote on any issue.

94 (2) A majority vote of the attending members or their representatives constituting a
95 quorum is sufficient to carry any motion unless the council has by prior vote designated a
96 greater percentage than a majority to sustain an action.

97 (3) (a) The council shall meet at least quarterly at a time and place it designates.

98 (b) The [~~chairman or~~] chair, a majority of the members of the council, or the council
99 director may call a special meeting at any time or place upon five days notice to all of the
100 members. A quorum of all members may waive notice requirements in writing.

101 Section 5. Section **67-5a-6** is amended to read:

102 **67-5a-6. Council director -- Qualifications and compensation.**

103 (1) The council shall appoint a director. The director is the chief administrative officer
104 and serves at the pleasure of the council.

105 (2) The director shall:

106 (a) be an attorney admitted to practice in the courts of the state;

107 (b) be selected on the basis of professional ability and experience in the fields of
108 administration, prosecution, and criminal law; and

109 (c) possess an understanding of court procedures, evidence, and criminal law.

110 (3) The director shall appoint resource prosecutors, with the consent of the council ~~§~~ → , ← ~~§~~
110a and

111 consistent with ~~§~~ → [state] attorney general ← ~~§~~ personnel policies ~~§~~ → that are not in conflict
111a with this chapter ← ~~§~~ . Resource prosecutors shall serve at the pleasure of the

112 council. Resource prosecutors shall:

113 (a) be an attorney admitted to practice in the courts of this state;

114 (b) be selected on the basis of professional ability and experience in the fields of
115 prosecution and criminal law; and

116 (c) possess an understanding of court procedures, evidence, and criminal law.

117 (4) The director shall appoint and supervise administrative staff consistent with ~~§~~ → [state]
117a attorney general ← ~~§~~

118 personnel policy.

119 [~~3~~] (5) The council shall select and establish the compensation of the director,
120 resource prosecutors, and administrative staff[,] consistent with state personnel policies.

121 Section 6. Section ~~67-5a-7~~ is amended to read:

122 **67-5a-7. Responsibilities of the director.**

123 Under the general supervision of the council and within the policies established by the
124 council, the director has the responsibility to:

125 (1) assign, supervise, and direct the staff of the council;

126 (2) implement the standards, policies, rules, and guidelines of the council;

127 (3) prepare and administer the budget of the council and comply with the Utah

128 Budgetary Procedures Act;

129 [~~(4)~~] ~~conduct studies of prosecution procedures and systems in the state, including~~
130 ~~reference to the district attorney prosecution system, and prepare reports and~~
131 ~~recommendations;~~]

132 [~~(5)~~] (4) maintain liaison with governmental and other public and private groups
133 having an interest in prosecution;

134 [~~(6)~~] (5) organize and administer a program of training and continuing legal education
135 for prosecutors in the state, including establishing training standards for prosecutors;

136 [~~(7)~~] ~~screen all requests addressed to any specialized investigation and prosecution unit~~
137 ~~created in the Office of the Attorney General for the investigation and prosecution of any child~~
138 ~~abuse offenses; and]~~

139 (6) ensure all statutory required training occurs; and

140 [~~(8)~~] (7) perform other duties as assigned by the council.