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

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

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

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

(1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.

(2) The council shall:

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

(ii) ensure that any training or continuing legal education described in Subsection (2)(a)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(b) provide assistance to local prosecutors; [~~and~~]

(c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws[~~.~~]; and

(d) provide training and assistance to law enforcement officers, as required elsewhere within this code.

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

(a) the attorney general or a designated representative;

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

(c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties; [~~a county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when he is no longer serving as a county attorney or district attorney, whichever occurs first;~~]

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

(i) two by the Utah Municipal Attorneys Association;[~~ a city prosecutor's term expires when a successor is designated by the association or when he is no longer employed as a city prosecutor, whichever occurs first;~~] and

(ii) two by the Utah Misdemeanor Prosecutors Association.

(e) the chair of the Board of Directors of the Statewide Association of Prosecutors and Public Attorneys of Utah; and

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

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

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

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

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

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

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

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

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

(c) voluntary resignation.

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

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

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

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

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

67-5a-4. Holding public employment.

A member of the council may not be disqualified as a member by holding any public office or employment, and [~~he~~] does not forfeit any office or employment due to [~~his~~]

membership on the council. This section takes precedence over any conflicting state law, local ordinance, or city charter.

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

67-5a-5. Quorum -- Meetings.

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

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

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

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

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

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

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

(2) The director shall:

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

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

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

(3) The director shall appoint resource prosecutors, with the consent of the council, and consistent with attorney general personnel policies that are not in conflict with this chapter. Resource prosecutors shall serve at the pleasure of the council. Resource prosecutors shall:

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

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

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

(4) The director shall appoint and supervise administrative staff consistent with attorney general personnel policy.

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

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

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

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

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

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

(3) prepare and administer the budget of the council and comply with the Utah Budgetary Procedures Act;

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

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

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

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

(6) ensure all statutory required training occurs; and

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