

SENATE BILL REPORT

SB 5691

As of January 18, 2022

Title: An act relating to increasing transparency and accountability regarding prosecutorial filing policies and practices.

Brief Description: Increasing transparency and accountability regarding prosecutorial filing policies and practices.

Sponsors: Senators Gildon, Honeyford and Rivers.

Brief History:

Committee Activity: Law & Justice: 1/20/22.

Brief Summary of Bill

- Requires all elected city attorneys and all county prosecuting attorneys that receive over 5000 criminal referrals annually to track all referrals and filing decisions.
- Requires prosecutors to create a publicly available report of this data, along with a strategy for referring, diverting, and charging referrals.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: It is the role of the prosecuting attorney, in part, to prosecute all criminal actions in which the state or the county may be a party. The prosecuting attorney may appoint one or more deputy prosecuting attorney's who must have the same power in all respects as does their principal.

The office of the prosecuting attorney is vested with broad authority to prosecute criminal cases occurring within its jurisdiction. In superior courts and district courts, the county

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prosecutors represent the state. In municipal courts, local prosecutors represent the city.

More than just an advocate, prosecutors have the responsibility of a minister of justice and as such are held to a higher standard of conduct than other attorneys. Prosecutors must discharge their public duties in an impartial manner and with fairness. Prosecutors must exercise sound discretion in the performance of their duties and must not act in an arbitrary or discriminatory manner.

Prosecutors have broad discretionary authority to file charges or not file charges in any particular case. State law provides prosecutorial standards intended to guide prosecutors in the exercise of prosecutorial discretion.

Summary of Bill: All elected city attorneys and all county prosecutors that receive over 5000 adult felony and misdemeanor referrals annually must track the number and types of adult felony and misdemeanor referrals received from law enforcement agencies and likewise track the number of cases where charges were either filed or not filed.

The prosecutor's offices must also post an annual report of this data on their jurisdiction's website. The annual report must include a brief summary describing the local trends in adult referrals and charges as well as the jurisdiction's strategy for referring, diverting, or charging certain classes of crimes such as violent crime and property crime.

The prosecutor's offices must provide a copy of any filing standards or policies that precludes taking action on referrals from law enforcement, restricting prosecution of certain crimes, or requires diversion of adult felonies and misdemeanors.

Appropriation: None.

Fiscal Note: Requested on January 12, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.