

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 1316

By: Humphrey

AS INTRODUCED

An Act relating to prosecuting attorneys; creating the Prosecuting Attorneys Oversight Commission; stating purpose of the Commission; defining term; establishing membership and panels of the Commission; stating responsibilities of the investigative panel; stating responsibilities of the hearing panel; defining terms; providing for the appointment of members to each panel; establishing date for initial terms; providing limitation on number of terms to be served; providing appointments upon vacancies; prohibiting ex parte communications regarding certain matters; providing procedures for voting; providing for the removal of panel members; setting quorum requirement; providing for travel reimbursement; directing the Commission to promulgate standards and rules of governance; providing grounds of discipline for district attorneys; establishing procedures for filing complaints; setting limitations on when the Commission can entertain complaints; providing exceptions; requiring confidentiality of information regarding disciplinary or incapacity matters; providing an exception; providing confidentiality and disclosure requirements after the filing and service of formal charges; providing confidentiality of work product; authorizing disclosure of information under certain circumstances; making information submitted to the Commission or staff privileged; directing copy of proposed record be given to respondent; providing commencement date of the Commission; requiring promulgation of rules and regulations by certain date; prohibiting the filing of complaints before certain date; limiting the authority of the

1 Commission; providing construing provision; providing
2 for codification; and providing an effective date.

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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 986 of Title 22, unless there is
7 created a duplication in numbering, reads as follows:

8 A. There is hereby created the Prosecuting Attorneys Oversight
9 Commission which shall have the power to discipline, remove, and
10 cause involuntary retirement of appointed or elected district
11 attorneys. As used in this section, the term "Commission" means the
12 Prosecuting Attorneys Oversight Commission.

13 B. The Commission shall consist of eight (8) members.

14 C. The Commission shall be divided into a five-member
15 investigative panel and a three-member hearing panel.

16 D. The investigative panel of the Commission shall be
17 responsible for:

18 1. The investigative, prosecutorial, and administrative
19 functions of the Commission;

20 2. Investigation of alleged conduct constituting grounds for
21 discipline under subsection S of this section;

22 3. The selection of an individual to serve as the Director of
23 the Commission who shall be an active member of the Oklahoma Bar
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1 Association and who shall not engage in the practice of law, other
2 than to represent the Commission; and

3 4. Authorization of employment of such additional staff as the
4 Commission deems necessary to carry out the powers and duties
5 assigned to the Commission.

6 E. The hearing panel of the Commission shall be responsible
7 for:

8 1. Adjudicating formal charges filed by the investigative
9 panel;

10 2. Issuing disciplinary and incapacity orders;

11 3. Issuing formal advisory opinions on its own initiative or on
12 the recommendation of the investigative panel regarding the grounds
13 for discipline set forth under subsection S of this section; and

14 4. Issuing standards on its own initiative or on the
15 recommendation of the investigative panel. Any such standards shall
16 elaborate, define, or provide context for the grounds for discipline
17 as set forth in subsection S of this section.

18 F. As used in subsection J of this section, the terms:

19 1. "Attorney" means a lawyer who has been an active member of
20 the State Bar of Oklahoma for at least ten (10) years and is a
21 registered voter in this state;

22 2. "Citizen" means an individual who is neither an attorney nor
23 a judge and who is a registered voter in this state; and

24

1 3. "Judge" means an elected or appointed public official who
2 presides over a court of record.

3 G. The District Attorneys Council may recommend to the
4 respective appointing authorities a list of the names of individuals
5 for consideration to serve as attorney Commission members.

6 H. The five members of the investigative panel of the
7 Commission shall be appointed as follows:

8 1. One attorney with prosecutorial experience shall be
9 appointed by the Governor and shall serve a term of four (4) years;
10 provided, however, that the initial appointment shall be for three
11 (3) years, and thereafter, successors to such member shall serve
12 terms of four (4) years;

13 2. One attorney with prosecutorial experience shall be
14 appointed by the Lieutenant Governor and shall serve a term of four
15 (4) years; provided, however, that the initial appointment shall be
16 for two (2) years, and thereafter, successors to such member shall
17 serve terms of four (4) years;

18 3. Two practicing attorneys shall be appointed by the Speaker
19 of the Oklahoma House of Representatives and each shall serve terms
20 of four (4) years; provided, however, that the initial appointment
21 of one attorney member as designated by the Speaker of the Oklahoma
22 House of Representatives shall be for four (4) years and the initial
23 appointment of the other attorney member as designated by the
24 Speaker of the Oklahoma House of Representatives shall be for one

1 (1) year, and thereafter, successors to such members shall serve
2 terms of four (4) years; and

3 4. One attorney with prosecutorial experience shall be
4 appointed by the President Pro Tempore of the Oklahoma State Senate
5 and shall serve a term of four (4) years; provided, however, that
6 the initial appointment shall be for three (3) years, and
7 thereafter, successors to such member shall serve terms of four (4)
8 years.

9 I. The investigative panel members shall annually elect a chair
10 and vice chair for such panel.

11 J. The three members of the hearing panel of the Commission
12 shall be appointed as follows:

13 1. One citizen member shall be appointed by the Governor for a
14 term of four (4) years and his or her successors shall serve terms
15 of four (4) years;

16 2. One district attorney shall be appointed by the President
17 Pro Tempore of the Oklahoma State Senate and shall be the presiding
18 officer of the hearing panel and shall serve a term of four (4)
19 years; provided, however, that the initial appointment shall be for
20 one (1) year, and thereafter, successors to such member shall serve
21 terms of four (4) years; and

22 3. One former judge of the Oklahoma Court of Criminal Appeals
23 or former judge who shall have at least ten (10) years of service as
24 a judge shall be appointed by the Speaker of the Oklahoma House of

1 Representatives and shall serve a term of four (4) years; provided,
2 however, that the initial appointment shall be for three (3) years,
3 and thereafter, successors to such member shall serve terms of four
4 (4) years.

5 K. All initial terms of the members shall begin on April 1,
6 2026; provided, however, that the initial term of a member under the
7 provisions of this section shall not be construed as counting toward
8 the limit of two full terms of service as provided for under
9 subsection L of this section.

10 L. A Commission member shall be eligible to serve so long as he
11 or she retains his or her status as an attorney, citizen, or
12 district attorney, but a vacancy shall be created by operation of
13 law when he or she no longer has the designation for which he or she
14 was appointed. Any vacancy for a member shall be filled by the
15 appointing authority, and such appointee shall serve the balance of
16 the unexpired term of the vacating member; provided, however, if the
17 appointing authority fails to fill a vacancy within sixty (60) days
18 of being notified of such vacancy by the Commission, the Governor
19 shall appoint a replacement member from the same category of the
20 previous member. Any member of the Commission shall serve no more
21 than two full terms.

22 M. Members and staff of the hearing panel shall not engage in
23 any ex parte communications regarding a disciplinary or incapacity
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1 matter of a district attorney, including with members and staff of
2 the investigative panel.

3 N. 1. Each member of the Commission shall be entitled to vote
4 on any matter coming before his or her respective panel unless
5 otherwise provided by rules adopted by the Commission concerning
6 recusal. The chair of the investigative panel and the presiding
7 officer of the hearing panel shall retain a vote on all matters
8 except those in which such chair or presiding officer has been
9 recused. No Commission member present at a panel meeting shall
10 abstain from voting unless he or she is recused. The rules of the
11 Commission shall establish grounds for recusal and the process for
12 allowing a temporary replacement of a Commission member in such
13 circumstance.

14 2. Removal of a panel member for cause shall be by a unanimous
15 vote of all members of the Commission; provided, however, that the
16 panel member who is the subject of the vote shall not vote.

17 3. As used in this subsection, the term "for cause" shall
18 include indictment for or conviction of a felony or any offense
19 involving moral turpitude, misconduct, malpractice, malfeasance,
20 misfeasance, nonfeasance, or incapacity, failure to attend three or
21 more panel meetings or hearings in a one-year period without good
22 and sufficient reason or abstaining from voting, unless recused.

23 O. A quorum of the investigative panel shall require any three
24 members of such panel.

1 P. Members of the Commission shall serve without compensation
2 but shall receive travel reimbursement as follows:

3 1. State employees who are members of the Commission shall be
4 reimbursed for necessary travel expenses incurred in the performance
5 of their duties by their respective agencies in accordance with the
6 State Travel Reimbursement Act; and

7 2. All other members of the Commission shall be reimbursed by
8 the Office of Management and Enterprise Services for necessary
9 travel expenses incurred in the performance of their duties in
10 accordance with the State Travel Reimbursement Act.

11 Q. The Commission, with the assistance of the District
12 Attorneys Council, shall promulgate standards of conduct and rules
13 for the governance of the Commission which will comport with due
14 process and enforce the provisions of subsections R and S of this
15 section; provided, however, that such standards and rules shall be
16 effective only upon review and adoption by the Oklahoma Supreme
17 Court. Such standards and rules shall allow for a full
18 investigation of a district attorney only upon majority vote of the
19 investigative panel. When a Commission member receives information
20 relating to the conduct of a district attorney, such member shall
21 provide such information to the director of the Commission for
22 appropriate action.

1 R. The following shall be grounds for discipline of a district
2 attorney or for his or her removal or involuntary retirement from
3 office:

4 1. Mental or physical incapacity interfering with the
5 performance of his or her duties which is, or is likely to become,
6 permanent;

7 2. Willful misconduct in office;

8 3. Willful and persistent failure to perform his or her duties;

9 4. Conviction of a crime involving moral turpitude;

10 5. Conduct prejudicial to the administration of justice which
11 brings the office into disrepute;

12 6. Knowingly authorizing or permitting an assistant district
13 attorney to commit any act constituting grounds for removal under
14 paragraphs 1 through 5 of this subsection; or

15 7. Violation of the Oklahoma Rules of Professional Conduct
16 including, but not limited to, Rule 3.8 of Appendix 3-A of Title 5
17 of the Oklahoma Statutes regarding special responsibilities of a
18 prosecutor.

19 S. 1. In any complaint filed with the Commission alleging a
20 violation of this subsection and requesting an investigation of an
21 elected or appointed district attorney, the complainant shall be
22 required to file with the Commission a sworn affidavit detailing the
23 personal knowledge of the facts supporting the complaint, including
24 any interest the complainant may have in the outcome of the case.

1 The complainant may attach documents to support the complaint.
2 Nothing in this section shall be construed to limit the ability of
3 the Commission to bring a complaint pursuant to this section on its
4 own motion.

5 2. The Commission may not entertain a complaint on the basis of
6 a charging decision, plea offer, opposition to or grant of a
7 continuance, placement of a case on a trial calendar, or
8 recommendation regarding bond unless the affidavits and any
9 documents attached to the complaint show it is plausible that the
10 district attorney made or knowingly authorized the decision based
11 on:

- 12 a. undue bias or prejudice against the accused or in
13 favor of persons with interests adverse to the
14 accused,
- 15 b. a lack of probable cause,
- 16 c. an undisclosed financial interest in the outcome of
17 the prosecution,
- 18 d. an undisclosed conflict of interest,
- 19 e. factors that are completely unrelated to the duties of
20 prosecution, or
- 21 f. a stated policy, written or otherwise, which
22 demonstrates that the district attorney categorically
23 refuses to prosecute any offense or offenses of which
24 he or she is required by law to prosecute.

1 3. All information regarding a disciplinary or incapacity
2 matter of a district attorney shall be kept confidential by the
3 investigative panel and Commission staff before formal charges are
4 filed; provided, however, that, if prior to filing formal charges
5 such judge and investigative panel agree to a satisfactory
6 disposition of a disciplinary matter other than by a private
7 admonition or deferred discipline agreement, a report of such
8 disposition shall be publicly filed in the Oklahoma Supreme Court.

9 4. After the filing and service of formal charges:

10 a. with respect to an incapacity matter of a district
11 attorney, all pleadings, information, hearings, and
12 proceedings shall remain confidential,

13 b. with respect to a disciplinary matter of a district
14 attorney, all pleadings and information shall be
15 subject to disclosure to the public, and all hearings
16 and proceedings shall be open and available to the
17 public, except to the extent that such pleadings and
18 information or hearings and proceedings could be
19 properly sealed by a court of competent jurisdiction,
20 and

21 c. with respect to administrative and other matters, all
22 records and information shall be subject to disclosure
23 to the public, and all meetings, or portions thereof,
24 shall be open and available to the public, except to

1 the extent that such records, information, and
2 meetings would:

3 (1) disclose disciplinary matters of a district
4 attorney protected in subparagraph b of this
5 paragraph,

6 (2) disclose incapacity matters of a district
7 attorney protected in subparagraph a of this
8 paragraph, or

9 (3) be considered a matter subject to executive
10 session, if the Commission were considered to be
11 an agency under the provisions of Section 3301 of
12 Title 74 of the Oklahoma Statutes.

13 5. The work product of the Commission and its staff and the
14 deliberations of the Commission shall remain confidential.

15 T. Notwithstanding the provisions of subsection S of this
16 section, information regarding a disciplinary or incapacity matter
17 of a district attorney may be disclosed or the confidentiality of
18 such information may be removed when:

19 1. The privilege of confidentiality has been waived by the
20 individual who was the subject of the investigation by the
21 Commission; or

22 2. The rules of the Commission provide for disclosure:

- 23 a. in the interest of justice and to protect the public,
24 b. if an emergency situation exists, or

1 c. if a district attorney is under consideration for
2 another state or federal position.

3 U. Information submitted to the Commission or its staff, and
4 testimony given in any proceeding before the Commission or one of
5 its panels, shall be absolutely privileged, and no civil action
6 predicated upon such information or testimony shall be instituted
7 against any complainant, witness, or his or her counsel.

8 V. A respondent who is subjected to public reprimand, censure,
9 limitation on the performance of prosecutorial duties, suspension,
10 retirement, or removal shall be entitled to a copy of the proposed
11 record to be filed with the Oklahoma Supreme Court and, if the
12 respondent has objections to it, to have the record settled by the
13 presiding officer of the hearing panel. The order issued by the
14 hearing panel in a disciplinary or incapacity matter may be reviewed
15 by the Oklahoma Supreme Court in accordance with its rules and the
16 rules of the Commission.

17 W. The Commission shall commence by April 1, 2026, and the
18 rules and regulations promulgated by such Commission shall be
19 established no later than April 1, 2026. No complaint shall be
20 filed before July 1, 2026.

21 X. The authority of the Commission shall be limited to
22 incapacity or discipline regarding the conduct of a district
23 attorney as a holder of such office. Nothing in this section shall
24 be construed as diminishing the authority of the Oklahoma Supreme

1 Court or the Oklahoma Bar Association to regulate the practice of
2 law in this state.

3 SECTION 2. This act shall become effective November 1, 2025.
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