



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3612

Introduced 1/19/2022, by Sen. Craig Wilcox

SYNOPSIS AS INTRODUCED:

720 ILCS 5/33-10 new

Amends the Criminal Code of 2012. Creates the offense of prosecutorial misconduct. Provides that an elected or appointed State's Attorney commits prosecutorial misconduct when he or she: (1) knowingly initiates or continues a criminal proceeding against a defendant; (2) there was insufficient probable cause or grounds to believe the basis for initiating or continuing the criminal proceeding; (3) the primary purpose of the criminal proceeding was malice or political gain; (4) the criminal proceeding was terminated in favor of the defendant with an acquittal, finding of not guilty, or directed verdict; and (5) the defendant suffered injury or damages as a result of the criminal proceeding. Provides that prosecutorial misconduct is a Class 3 felony.

LRB102 24603 RLC 33838 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by adding
5 Section 33-10 as follows:

6 (720 ILCS 5/33-10 new)

7 Sec. 33-10. Prosecutorial misconduct.

8 (a) An elected or appointed State's Attorney commits
9 prosecutorial misconduct when he or she:

10 (1) knowingly initiates or continues a criminal
11 proceeding against a defendant;

12 (2) where there is insufficient probable cause or
13 grounds to believe the basis for initiating or continuing
14 the criminal proceeding;

15 (3) where the primary purpose of the criminal
16 proceeding was malice or political gain;

17 (4) where the criminal proceeding was terminated in
18 favor of the defendant with an acquittal, finding of not
19 guilty, or directed verdict; and

20 (5) where the defendant suffers economic or
21 reputational injury or damages as a result of the criminal
22 proceeding.

23 (b) Sentence. Prosecutorial misconduct is a Class 3

1 felony.