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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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The Appropriations Committee on Criminal and Civil Justice
(Yarborough) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (1) and (2) of section
112.531, Florida Statutes, are redesignated as subsections (2)
and (3), respectively, and a new subsection (1) and subsection
(4) are added to that section, to read:

112.531 Definitions.—As used in this part, the term:

(1) "Brady identification system" means a list or



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11 identification, in whatever form, of the name or names of law
12 enforcement officers or correctional officers about whom a
13 prosecuting agency is in possession of impeachment evidence as
14 defined by court decision, statute, or rule.

15 (4) "Prosecuting agency" means the Attorney General or an
16 assistant attorney general, the statewide prosecutor or an
17 assistant statewide prosecutor, a state attorney or an assistant
18 state attorney, a city or county attorney, a special prosecutor,
19 or any other person or entity charged with the prosecution of a
20 criminal case.

21 Section 2. Subsection (7) is added to section 112.532,
22 Florida Statutes, to read:

23 112.532 Law enforcement officers' and correctional
24 officers' rights.—All law enforcement officers and correctional
25 officers employed by or appointed to a law enforcement agency or
26 a correctional agency shall have the following rights and
27 privileges:

28 (7) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL
29 OFFICERS RELATING TO A BRADY IDENTIFICATION SYSTEM.—

30 (a) A law enforcement officer or correctional officer has
31 all of the rights specified in s. 112.536 relating to the
32 inclusion of the name and information of the officer in a Brady
33 identification system.

34 (b) A law enforcement officer or correctional officer may
35 not be discharged, suspended, demoted, or otherwise disciplined,
36 or threatened with discharge, suspension, demotion, or other
37 discipline, by his or her employing agency solely as a result of
38 a prosecuting agency determining that the officer's name and
39 information should be included in a Brady identification system.



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40 This paragraph does not prohibit an officer's employing agency
41 from discharging, suspending, demoting, or taking other
42 disciplinary action against a law enforcement officer or
43 correctional officer based on the underlying actions of the
44 officer which resulted in his or her name being included in a
45 Brady identification system. If a collective bargaining
46 agreement applies, the actions taken by the officer's employing
47 agency must conform to the rules and procedures adopted by the
48 collective bargaining agreement.

49 Section 3. Section 112.536, Florida Statutes, is created to
50 read:

51 112.536 Requirements for maintaining a Brady identification
52 system.—

53 (1) (a) A prosecuting agency is not required to maintain a
54 Brady identification system and may determine, in its
55 discretion, that its obligations under the decision in *Brady v.*
56 *Maryland*, 373 U.S. 83 (1963), are better fulfilled through any
57 such procedure the prosecuting agency otherwise chooses to
58 utilize.

59 (b) The employing agency of a law enforcement officer or
60 correctional officer shall forward all sustained and finalized
61 internal affairs complaints relevant to s. 90.608, s. 90.609, or
62 s. 90.610 to the prosecuting agency in the circuit in which the
63 employing agency is located to assist the prosecuting agency in
64 complying with its obligations under the *Brady* decision. The
65 employing agency of a law enforcement officer or correctional
66 officer must notify the law enforcement officer or correctional
67 officer of any sustained and finalized internal affairs
68 complaints that are sent to a prosecuting agency as required



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69 under this section. If the law enforcement officer or
70 correctional officer is no longer employed by the employing
71 agency, the employing agency must mail through United States
72 mail such notification to the officer's last known address on
73 file with the employing agency.

74 (2) A prosecuting agency that maintains a Brady
75 identification system must adopt written policies that, at a
76 minimum, require all of the following:

77 (a) The right of a law enforcement officer or correctional
78 officer to receive written notice by United States mail or e-
79 mail, which must be sent to the officer's current or last known
80 employing agency before or contemporaneously with the
81 prosecuting agency including the name and information of the
82 officer in the Brady identification system, unless a pending
83 criminal case requires immediate disclosure or providing such
84 notice to the officer would jeopardize a pending investigation.

85 (b) The right of a law enforcement officer or correctional
86 officer to request reconsideration of the prosecuting agency's
87 decision to include the name and information of the officer in a
88 Brady identification system and his or her right to submit
89 documents and evidence in support of the request for
90 reconsideration.

91 (3) If, after a request for reconsideration is made under
92 paragraph (2) (b), the prosecuting agency subsequently determines
93 that the law enforcement officer or correctional officer should
94 not be included in a Brady identification system, the
95 prosecuting agency must do all of the following:

96 (a) Remove such officer from the Brady identification
97 system.



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98 (b) Send written notice by United States mail or e-mail to
99 the law enforcement officer or correctional officer at the
100 officer's current or last known employing agency confirming that
101 the officer's name has been removed from the Brady
102 identification system.

103 (c) If the name of a law enforcement officer or
104 correctional officer was previously included in a Brady
105 identification system and his or her name was disclosed in a
106 pending criminal case, notify all parties to the pending
107 criminal case of the officer's removal from the Brady
108 identification system.

109 (4) If a prosecuting agency fails to comply with this
110 section, a law enforcement officer or correctional officer may
111 petition a court for a writ of mandamus to compel the
112 prosecuting agency to comply with the requirements of this
113 section. The court's scope of review in such matter is limited
114 to whether the prosecuting agency acted in accordance with the
115 procedural requirements of this section and may not include a
116 judicial review of the evidence or merits that were the basis
117 for the inclusion of the officer's name in a Brady
118 identification system. This section does not preclude a law
119 enforcement officer or correctional officer from pursuing any
120 other available administrative or judicial remedies.

121 (5) This section does not:

122 (a) Require a prosecuting agency to give notice to or
123 provide an opportunity for review and input from a law
124 enforcement officer or correctional officer if the information
125 in a Brady identification system is:

126 1. A criminal conviction that may be used for impeachment



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127 under s. 90.610; or

128 2. A sustained and finalized internal affairs complaint
129 that may be used for impeachment under s. 90.608, s. 90.609, or
130 s. 90.610;

131 (b) Limit the duty of a prosecuting agency to produce Brady
132 evidence in all cases as required by the United States
133 Constitution, the State Constitution, and the Florida Rules of
134 Criminal Procedure and relevant case law;

135 (c) Limit or restrict a prosecuting agency's ability to
136 remove the name and information of a law enforcement officer or
137 correctional officer from a Brady identification system if, at
138 any time, the prosecuting agency determines that the name and
139 information of the officer are no longer proper for
140 identification; or

141 (d) Create a private cause of action against a prosecuting
142 agency or any employee of a prosecuting agency, other than the
143 writ of mandamus authorized in subsection (4).

144 Section 4. This act shall take effect July 1, 2023.

145
146 ===== T I T L E A M E N D M E N T =====

147 And the title is amended as follows:

148 Delete everything before the enacting clause
149 and insert:

150 A bill to be entitled
151 An act relating to rights of law enforcement officers
152 and correctional officers; amending s. 112.531, F.S.;
153 providing definitions; amending s. 112.532, F.S.;
154 providing rights of law enforcement officers and
155 correctional officers relating to Brady identification



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156 systems; prohibiting a law enforcement officer or
157 correctional officer from being discharged, suspended,
158 demoted, or otherwise disciplined or threatened with
159 discipline for certain reasons; providing
160 construction; requiring the employing agency of a law
161 enforcement officer or correctional officer to conform
162 to certain rules and procedures; creating s. 112.536,
163 F.S.; providing that a prosecuting agency is not
164 required to maintain a Brady identification system;
165 authorizing a prosecuting agency to choose different
166 procedures to fulfill its obligations under a
167 specified Supreme Court case; requiring the employing
168 agency of a law enforcement officer or correctional
169 officer to forward specified information to a
170 prosecuting agency; requiring an employing agency to
171 provide certain notice to a law enforcement officer or
172 correctional officer in specified circumstances;
173 requiring a prosecuting agency that maintains a Brady
174 information system to adopt written policies;
175 providing minimum requirements for such policies;
176 authorizing a law enforcement officer or correctional
177 officer to request reconsideration of the inclusion of
178 his or her name and information in a Brady
179 identification system; requiring a prosecuting agency
180 to remove the name of a law enforcement officer or
181 correctional officer from a Brady identification
182 system under certain circumstances; requiring a
183 prosecuting agency to notify a law enforcement officer
184 or correctional officer and certain parties that the



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185 officer's name is being removed from the Brady
186 identification system; authorizing a law enforcement
187 officer or correctional officer to petition for a writ
188 of mandamus under certain circumstances; providing the
189 scope of a court's judicial review; providing
190 construction; providing an effective date.