

By the Committee on Criminal Justice; and Senator Yarborough

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1 A bill to be entitled
2 An act relating to rights of law enforcement officers
3 and correctional officers; amending s. 112.531, F.S.;
4 defining terms; amending s. 112.532, F.S.; providing
5 rights of law enforcement officers and correctional
6 officers relating to a Brady identification system;
7 prohibiting a law enforcement officer or correctional
8 officer from being discharged, suspended, demoted, or
9 otherwise disciplined for certain reasons; providing
10 construction; requiring the employing agency of a law
11 enforcement officer or correctional officer to conform
12 to certain rules and procedures; creating s. 112.536,
13 F.S.; providing that a prosecuting agency is not
14 required to maintain a Brady identification system;
15 authorizing a prosecuting agency to choose different
16 procedures to discharge its obligations under a
17 specified United States Supreme Court ruling; imposing
18 requirements on the current or former employing agency
19 of the law enforcement officer or correctional
20 officer; requiring a prosecuting agency that maintains
21 a Brady identification system to adopt written
22 policies; providing minimum requirements for such
23 policies; requiring a prosecuting agency to provide
24 certain notices to certain law enforcement officers or
25 correctional officers and their employing agency under
26 certain conditions; requiring the prosecuting agency
27 to notify specified parties in a pending case of the
28 removal of the name of a law enforcement officer or a
29 correctional officer from the Brady identification

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30 system under certain conditions; authorizing a law
31 enforcement officer or a correctional officer to
32 petition for a writ of mandamus under certain
33 circumstances; providing the scope of the judicial
34 review; providing construction; providing an effective
35 date.

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37 Be It Enacted by the Legislature of the State of Florida:

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39 Section 1. Present subsections (1) and (2) of section
40 112.531, Florida Statutes, are redesignated as subsections (2)
41 and (3), respectively, and a new subsection (1) and subsection
42 (4) are added to that section, to read:

43 112.531 Definitions.—As used in this part, the term:

44 (1) "Brady identification system" means a list or
45 identification, in whatever form, of the name or names of law
46 enforcement or correctional officers about whom a prosecuting
47 agency is in possession of impeachment evidence as defined by
48 decision, statute, or rule.

49 (4) "Prosecuting agency" means the Attorney General or an
50 assistant attorney general, the statewide prosecutor or an
51 assistant statewide prosecutor, a state attorney or an assistant
52 state attorney, a city or county attorney, a special prosecutor,
53 or any other person or entity charged with the prosecution of a
54 criminal case.

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

57 112.532 Law enforcement officers' and correctional
58 officers' rights.—All law enforcement officers and correctional

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59 officers employed by or appointed to a law enforcement agency or
60 a correctional agency shall have the following rights and
61 privileges:

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

64 (a) A law enforcement officer or correctional officer has
65 all of the rights specified in s. 112.536 relating to the
66 inclusion of the name and information of the officer in a Brady
67 identification system.

68 (b) A law enforcement officer or correctional officer may
69 not be discharged, suspended, demoted, or otherwise disciplined,
70 or threatened with discharge, suspension, demotion, or other
71 discipline, by his or her employing agency solely as a result of
72 a prosecuting agency determining that the officer's name and
73 information should be included in a Brady identification system.
74 This paragraph does not prohibit an officer's employing agency
75 from discharging, suspending, demoting, or taking other
76 disciplinary action against a law enforcement officer or
77 correctional officer based on the underlying actions of the
78 officer which resulted in his or her inclusion in a Brady
79 identification system. If a collective bargaining agreement
80 applies, the actions taken by the officer's employing agency
81 must conform to the rules and procedures adopted by the
82 collective bargaining agreement.

83 Section 3. Section 112.536, Florida Statutes, is created to
84 read:

85 112.536 Requirements for maintaining a Brady identification
86 system.—

87 (1) (a) A prosecuting agency is not required to maintain a

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88 Brady identification system. A prosecuting agency may determine
89 that its obligations under the *Brady v. Maryland*, 373 U.S. 83
90 (1963) decision are better discharged through such procedures as
91 that agency chooses to use.

92 (b) A law enforcement officer's or correctional officer's
93 employing agency shall forward all sustained and finalized
94 internal affairs complaints relevant to s. 90.608, s. 90.609, or
95 s. 90.610 to the prosecuting agency in the circuit in which the
96 law enforcement agency is located to assist the prosecuting
97 agency in compliance with its obligations under the Brady
98 decision. The employing agency must notify the law enforcement
99 officer or correctional officer of any sustained and finalized
100 internal affairs investigations it sends to the prosecuting
101 agency as required by this section. If the law enforcement
102 officer or correctional officer is no longer employed, the
103 agency must mail notification to the officer's last known
104 address on file at the agency.

105 (2) A prosecuting agency that maintains a Brady
106 identification system shall adopt written policies that, at a
107 minimum, require all of the following:

108 (a) The right of a law enforcement officer or a
109 correctional officer to receive written notice through United
110 States mail or e-mail to the current or last known employing
111 agency of the officer, before or contemporaneously with a
112 prosecuting agency including the name and information of the
113 officer in a Brady identification system, unless a pending case
114 requires immediate disclosure or providing notice would
115 jeopardize a pending investigation.

116 (b) The right of a law enforcement officer or a

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117 correctional officer to receive written notice before a
118 prosecuting agency includes the name and information of the
119 officer in a Brady identification system.

120 (c) The right of a law enforcement officer or a
121 correctional officer to request reconsideration of the
122 prosecuting agency's decision to include the name and
123 information of the officer in a Brady identification system and
124 his or her right to submit documents and evidence in support of
125 the request for reconsideration.

126 (3) If, after the policies provided in subsection (2) are
127 followed, it is determined that the law enforcement officer or
128 correctional officer in question should not be included in a
129 Brady identification system, the prosecuting agency must send
130 notice to the law enforcement officer or correctional officer
131 and his or her employing agency that he or she has been removed
132 from the Brady identification system.

133 (4) If, after the policies provided in subsection (2) are
134 followed, it is determined that the law enforcement officer or
135 correctional officer in question should not be included in a
136 Brady identification system, but his or her name was disclosed
137 in a pending case, the prosecuting agency must take the
138 necessary steps to notify the parties involved in the pending
139 case of the law enforcement officer's or correctional officer's
140 removal from the Brady identification system.

141 (5) If a prosecuting agency fails to comply with this
142 section, a law enforcement officer or a correctional officer may
143 petition the court for a writ of mandamus to compel the
144 prosecuting agency to act in accordance with this section. The
145 scope of such a hearing may not include a judicial review of the

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146 evidence or merits of an officer's inclusion in a Brady
147 identification system, but instead must be limited to whether
148 the prosecuting agency acted in accordance with the procedural
149 requirements of this section. This section does not preclude the
150 law enforcement officer or correctional officer from pursuing
151 whatever administrative or judicial remedies are otherwise
152 available to him or her in relation to any other action or
153 remedy outside of this section.

154 (6) This section does not:

155 (a) Require a prosecuting agency to give notice to or
156 provide an opportunity for review and input from the law
157 enforcement officer or correctional officer if the information
158 in a Brady identification system is the following:

159 1. A criminal conviction relevant to s. 90.610; or

160 2. A sustained and finalized internal affairs complaint
161 relevant to s. 90.608, s. 90.609, or s. 90.610;

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

166 (c) Limit or restrict a prosecuting agency's ability to
167 remove the name and information of a law enforcement officer or
168 correctional officer from a Brady identification system if, at
169 any time, the prosecuting agency determines that the name and
170 information of the officer are no longer proper for
171 identification; or

172 (d) Create a private cause of action against a prosecuting
173 agency or any employee of a prosecuting agency, other than the
174 writ described in subsection (5).

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