

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee  
 2 Representative Duggan offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

6 Section 1. Present subsections (1) and (2) of section  
 7 112.531, Florida Statutes, are redesignated as subsections (2)  
 8 and (3), respectively, and a new subsection (1) and subsection  
 9 (4) are added to that section, to read:

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

11 (1) "Brady identification system" means a list or  
 12 identification, in whatever form, of the name or names of law  
 13 enforcement or correctional officers about whom a prosecuting  
 14 agency is in possession of impeachment evidence as defined by  
 15 decision, statute, or rule.

Amendment No. 1

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

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

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

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

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

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

738293 - h0095-strike.docx

Published On: 3/22/2023 1:32:52 PM

Amendment No. 1

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

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

52 112.536 Requirements for maintaining a Brady  
53 identification system.-

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

60 (b) A law enforcement officer or correctional officer's  
61 employing agency shall forward all sustained and finalized  
62 internal affairs complaints relevant to s. 90.608, s. 90.609, or  
63 s. 90.610 to the prosecuting agency in the circuit in which the  
64 law enforcement agency is located to assist the prosecuting  
65 agency in complying with its obligations under the Brady

738293 - h0095-strike.docx

Published On: 3/22/2023 1:32:52 PM

Amendment No. 1

66 decision. A law enforcement officer or correctional officer's  
67 employing agency must notify the law enforcement officer or  
68 correctional officer of any sustained and finalized internal  
69 affairs complaints that are sent to a prosecuting agency as  
70 required by this section. If the law enforcement officer or  
71 correctional officer is no longer employed by such agency, the  
72 employing agency must mail such notification to the officer's  
73 last known address on file at the agency.

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

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

738293 - h0095-strike.docx

Published On: 3/22/2023 1:32:52 PM

Amendment No. 1

91 (3) If, after a request for reconsideration is made under  
92 subsection (2), 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 the following:

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

98 (b) Send written notice to the law enforcement officer or  
99 correctional officer through United States mail or electronic  
100 mail sent to the officer's current or last known employing  
101 agency confirming that the officer's name has been removed from  
102 the Brady identification system; and

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

108 (4) If a prosecuting agency fails to comply with this  
109 section, a law enforcement officer or a correctional officer may  
110 petition a court for a writ of mandamus to compel the  
111 prosecuting agency to comply with the requirements of this  
112 section. The scope of review in such a matter must be limited to  
113 whether the prosecuting agency acted in accordance with the  
114 procedural requirements of this section and may not include a  
115 judicial review of the evidence or merits of an officer's

738293 - h0095-strike.docx

Published On: 3/22/2023 1:32:52 PM

Amendment No. 1

116 inclusion in a Brady identification system. Nothing in this  
117 section precludes a law enforcement officer or correctional  
118 officer from pursuing any other available administrative or  
119 judicial remedies.

120 (5) This section does not:

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

125 1. A criminal conviction which may be used for impeachment  
126 under s. 90.610; or

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

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

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

738293 - h0095-strike.docx

Published On: 3/22/2023 1:32:52 PM

Amendment No. 1

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

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

145 -----  
146 **T I T L E A M E N D M E N T**

147 Remove everything before the enacting clause and insert:

148 A bill to be entitled

149 An act relating to rights of law enforcement officers  
150 and correctional officers; amending s. 112.531, F.S.;  
151 defining terms; amending s. 112.532, F.S.; providing  
152 rights of law enforcement officers and correctional  
153 officers relating to a Brady identification system;  
154 prohibiting a law enforcement officer or correctional  
155 officer from being discharged, suspended, demoted, or  
156 otherwise disciplined for certain reasons; providing  
157 construction; requiring the employing agency of a law  
158 enforcement officer or correctional officer to conform  
159 to certain rules and procedures; creating s. 112.536,  
160 F.S.; providing that a prosecuting agency is not  
161 required to maintain a Brady identification system;  
162 authorizing a prosecuting agency to choose different  
163 procedures to discharge its obligations under the  
164 Brady decision; requiring a law enforcement officer or

## Amendment No. 1

165 | correctional officer's employing agency to forward  
166 | specified information to a prosecuting agency;  
167 | requiring an employing agency to provide notice to a  
168 | law enforcement officer or correctional officer in  
169 | specified circumstances; requiring a prosecuting  
170 | agency that maintains a Brady identification system to  
171 | adopt written policies; providing minimum requirements  
172 | for such policies; requiring a prosecuting agency to  
173 | provide certain notices to certain law enforcement  
174 | officers or correctional officers and their employing  
175 | agency under certain conditions; authorizing a law  
176 | enforcement officer or correctional officer to request  
177 | reconsideration of his or her inclusion in a Brady  
178 | identification system; requiring the prosecuting  
179 | agency to remove an officer's name from the Brady  
180 | identification system if the prosecuting agency  
181 | determines that the officer should not be included in  
182 | such system; requiring the prosecuting agency to  
183 | notify specified parties in a pending criminal case of  
184 | the removal of the name of a law enforcement officer  
185 | or a correctional officer from the Brady  
186 | identification system under certain conditions;  
187 | authorizing a law enforcement officer or a  
188 | correctional officer to petition for a writ of  
189 | mandamus under certain circumstances; providing the

738293 - h0095-strike.docx

Published On: 3/22/2023 1:32:52 PM



Amendment No. 1

190 | scope of the judicial review; providing construction;  
191 | providing an effective date.