

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 providing definitions; amending s. 112.532, F.S.;  
5 providing rights of law enforcement officers and  
6 correctional officers relating to Brady identification  
7 systems; prohibiting a law enforcement officer or  
8 correctional officer from being discharged, suspended,  
9 demoted, or otherwise disciplined for certain reasons;  
10 providing construction; requiring the employing agency  
11 of a law enforcement officer or correctional officer  
12 to conform to certain rules and procedures; creating  
13 s. 112.536, F.S.; providing that a prosecuting agency  
14 is not required to maintain a Brady identification  
15 system; authorizing a prosecuting agency to choose  
16 different procedures to fulfill its obligations under  
17 a specified Supreme Court case; requiring the  
18 employing agency of a law enforcement officer or  
19 correctional officer to forward specified information  
20 to a prosecuting agency; requiring an employing agency  
21 to provide certain notice to a law enforcement officer  
22 or correctional officer in specified circumstances;  
23 requiring a prosecuting agency that maintains a Brady  
24 information system to adopt written policies;  
25 providing minimum requirements for such policies;

26 | authorizing a law enforcement officer or correctional  
 27 | officer to request reconsideration of the inclusion of  
 28 | his or her name and information in a Brady  
 29 | identification system; requiring a prosecuting agency  
 30 | to remove the name of a law enforcement officer or  
 31 | correctional officer in a Brady identification system  
 32 | under certain circumstances; requiring a prosecuting  
 33 | agency to notify a law enforcement officer or  
 34 | correctional officer and certain parties that the  
 35 | officer's name is being removed from the Brady  
 36 | identification system; authorizing a law enforcement  
 37 | officer or correctional officer to petition for a writ  
 38 | of mandamus under certain circumstances; providing the  
 39 | scope of a court's judicial review; providing  
 40 | construction; providing an effective date.

41 |  
 42 | Be It Enacted by the Legislature of the State of Florida:

43 |  
 44 | Section 1. Subsections (1) and (2) of section 112.531,  
 45 | Florida Statutes, are renumbered as subsections (2) and (3),  
 46 | respectively, and new subsections (1) and (4) are added to that  
 47 | section, to read:

48 | 112.531 Definitions.—As used in this part, the term:

49 | (1) "Brady identification system" means a list or  
 50 | identification, in whatever form, of the name or names of law

51 enforcement officers or correctional officers about whom a  
 52 prosecuting agency is in possession of impeachment evidence as  
 53 defined by court decision, statute, or rule.

54 (4) "Prosecuting agency" means the Attorney General or an  
 55 assistant attorney general, the statewide prosecutor or an  
 56 assistant statewide prosecutor, a state attorney or an assistant  
 57 state attorney, a city or county attorney, a special prosecutor,  
 58 or any other person or entity charged with the prosecution of a  
 59 criminal case.

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

62 112.532 Law enforcement officers' and correctional  
 63 officers' rights.—All law enforcement officers and correctional  
 64 officers employed by or appointed to a law enforcement agency or  
 65 a correctional agency shall have the following rights and  
 66 privileges:

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

69 (a) A law enforcement officer or correctional officer has  
 70 all of the rights specified in s. 112.536 relating to the  
 71 inclusion of the name and information of the officer in a Brady  
 72 identification system.

73 (b) A law enforcement officer or correctional officer may  
 74 not be discharged, suspended, demoted, or otherwise disciplined,  
 75 or threatened with discharge, suspension, demotion, or other

76 discipline, by his or her employing agency solely as a result of  
77 a prosecuting agency determining that the officer's name and  
78 information should be included in a Brady identification system.  
79 This paragraph does not prohibit an officer's employing agency  
80 from discharging, suspending, demoting, or taking other  
81 disciplinary action against a law enforcement officer or  
82 correctional officer based on the underlying actions of the  
83 officer which resulted in his or her name being included in a  
84 Brady identification system. If a collective bargaining  
85 agreement applies, the actions taken by the officer's employing  
86 agency must conform to the rules and procedures adopted by the  
87 collective bargaining agreement.

88 Section 3. Section 112.536, Florida Statutes, is created  
89 to read:

90 112.536 Requirements for maintaining a Brady  
91 identification system.—

92 (1)(a) A prosecuting agency is not required to maintain a  
93 Brady identification system and may determine, in its  
94 discretion, that its obligations under the decision in *Brady v.*  
95 *Maryland*, 373 U.S. 83 (1963), are better fulfilled through any  
96 such procedure the prosecuting agency otherwise chooses to  
97 utilize.

98 (b) The employing agency of a law enforcement officer or  
99 correctional officer shall forward all sustained and finalized  
100 internal affairs complaints relevant to s. 90.608, s. 90.609, or

101 s. 90.610 to the prosecuting agency in the circuit in which the  
102 employing agency is located to assist the prosecuting agency in  
103 complying with its obligations under the *Brady* decision. The  
104 employing agency of a law enforcement officer or correctional  
105 officer must notify the law enforcement officer or correctional  
106 officer of any sustained and finalized internal affairs  
107 complaints that are sent to a prosecuting agency as required  
108 under this section. If the law enforcement officer or  
109 correctional officer is no longer employed by the employing  
110 agency, the employing agency must mail through United States  
111 mail such notification to the officer's last known address on  
112 file with the employing agency.

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

116 (a) The right of a law enforcement officer or correctional  
117 officer to receive written notice by United States mail or e-  
118 mail, which must be sent to the officer's current or last known  
119 employing agency before or contemporaneously with the  
120 prosecuting agency including the name and information of the  
121 officer in the Brady identification system, unless a pending  
122 criminal case requires immediate disclosure or providing such  
123 notice to the officer would jeopardize a pending investigation.

124 (b) The right of a law enforcement officer or correctional  
125 officer to request reconsideration of the prosecuting agency's

126 decision to include the name and information of the officer in a  
127 Brady identification system and his or her right to submit  
128 documents and evidence in support of the request for  
129 reconsideration.

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

135 (a) Remove such officer from the Brady identification  
136 system.

137 (b) Send written notice by United States mail or e-mail to  
138 the law enforcement officer or correctional officer at the  
139 officer's current or last known employing agency confirming that  
140 the officer's name has been removed from the Brady  
141 identification system.

142 (c) If the name of a law enforcement officer or  
143 correctional officer was previously included in a Brady  
144 identification system and his or her name was disclosed in a  
145 pending criminal case, notify all parties to the pending  
146 criminal case of the officer's removal from the Brady  
147 identification system.

148 (4) If a prosecuting agency fails to comply with this  
149 section, a law enforcement officer or correctional officer may  
150 petition a court for a writ of mandamus to compel the

151 prosecuting agency to comply with the requirements of this  
152 section. The court's scope of review in such matter is limited  
153 to whether the prosecuting agency acted in accordance with the  
154 procedural requirements of this section and may not include a  
155 judicial review of the evidence or merits that were the basis  
156 for the inclusion of the officer's name in a Brady  
157 identification system. This section does not preclude a law  
158 enforcement officer or correctional officer from pursuing any  
159 other available administrative or judicial remedies.

160 (5) This section does not:

161 (a) Require a prosecuting agency to give notice to or  
162 provide an opportunity for review and input from a law  
163 enforcement officer or correctional officer if the information  
164 in a Brady identification system is:

165 1. A criminal conviction that may be used for impeachment  
166 under s. 90.610; or

167 2. A sustained and finalized internal affairs complaint  
168 that may be used for impeachment under s. 90.608, s. 90.609, or  
169 s. 90.610;

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

174 (c) Limit or restrict a prosecuting agency's ability to  
175 remove the name and information of a law enforcement officer or

CS/HB 95

2023

176 | correctional officer from a Brady identification system if, at  
177 | any time, the prosecuting agency determines that the name and  
178 | information of the officer are no longer proper for  
179 | identification; or

180 | (d) Create a private cause of action against a prosecuting  
181 | agency or any employee of a prosecuting agency, other than the  
182 | writ of mandamus authorized in subsection (4).

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