

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 Giglio lists;
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.; requiring a prosecuting agency to adopt written
14 policies for the maintenance of a Brady Giglio list;
15 providing minimum requirements for such policies;
16 requiring a prosecuting agency to consult with certain
17 agencies when creating the written policies; requiring
18 that the written policies be reviewed periodically;
19 requiring a prosecuting agency to provide certain
20 notices to the current or last known employing agency
21 of certain law enforcement officers or correctional
22 officers; requiring employing agencies to provide such
23 notices to law enforcement officers or correctional
24 officers; providing requirements for such notices;
25 requiring a prosecuting agency to remove or retain the

26 name and information of a law enforcement officer or
 27 correctional officer on a Brady Giglio list under
 28 certain circumstances; providing specified rights to
 29 certain law enforcement officers and correctional
 30 officers; authorizing a law enforcement officer or
 31 correctional officer to petition for a writ of
 32 mandamus under certain circumstances; providing
 33 construction; providing an effective date.

34

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

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37 Section 1. Subsections (1) and (2) of section 112.531,
 38 Florida Statutes, are renumbered as subsections (2) and (3),
 39 respectively, and new subsections (1) and (4) are added to that
 40 section, to read:

41 112.531 Definitions.—As used in this part, the term:

42 (1) "Brady Giglio list" means a list or database compiled
 43 by a prosecuting agency that contains the names and personal
 44 identifying information of law enforcement officers or
 45 correctional officers who have:

46 (a) Sustained incidents of untruthfulness;

47 (b) Issues with candor;

48 (c) Been convicted of a criminal offense; or

49 (d) Any other issue that places the credibility of the
 50 officer into question.

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

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

59 112.532 Law enforcement officers' and correctional
 60 officers' rights.—All law enforcement officers and correctional
 61 officers employed by or appointed to a law enforcement agency or
 62 a correctional agency shall have the following rights and
 63 privileges:

64 (7) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL
 65 OFFICERS RELATING TO BRADY GIGLIO LISTS.—

66 (a) A law enforcement officer or correctional officer has
 67 all of the rights specified in s. 112.536 relating to the
 68 inclusion of the name and information of the officer on a Brady
 69 Giglio list.

70 (b) A law enforcement officer or correctional officer may
 71 not be discharged, suspended, demoted, or otherwise disciplined,
 72 or threatened with discharge, suspension, demotion, or other
 73 discipline, by his or her employing agency solely as a result of
 74 a prosecuting agency determining that the officer withheld
 75 exculpatory evidence or because his or her name and information

76 was included on a Brady Giglio list. This paragraph does not
 77 prohibit an officer's employing agency from discharging,
 78 suspending, demoting, or taking other disciplinary action
 79 against a law enforcement officer or correctional officer based
 80 on the underlying actions of the officer which resulted in the
 81 exculpatory evidence for a defendant. If a collective bargaining
 82 agreement applies, the actions taken by the officer's employing
 83 agency must conform to the rules and procedures adopted by the
 84 collective bargaining agreement.

85 Section 3. Section 112.536, Florida Statutes, is created
 86 to read:

87 112.536 Requirements for maintaining a Brady Giglio list.—

88 (1) (a) A prosecuting agency that maintains a Brady Giglio
 89 list shall adopt written policies that, at a minimum, require
 90 all of the following:

91 1. The criteria used to determine whether to include the
 92 name and information of a law enforcement officer or
 93 correctional officer on a Brady Giglio list.

94 2. The right of a law enforcement officer or correctional
 95 officer to receive written notice before a prosecuting agency
 96 includes the name and information of the officer on a Brady
 97 Giglio list.

98 3. The right of a law enforcement officer or correctional
 99 officer to review the findings of the prosecuting agency and
 100 provide input to the prosecuting agency before the name and

101 information of the officer is placed on a Brady Giglio list.

102 4. Written notice to a law enforcement officer or
103 correctional officer and the officer's employing agency
104 regarding the placement of the officer's name and information on
105 a Brady Giglio list.

106 5. The right of a law enforcement officer or correctional
107 officer to request reconsideration of the prosecuting agency's
108 decision to include the name and information of the officer on a
109 Brady Giglio list and his or her right to submit documents and
110 evidence in support of the request for reconsideration.

111 6. The criteria used to determine whether the prosecuting
112 agency will accept or deny a request for reconsideration.

113 7. The applicable time frames and procedural requirements
114 for notifying a law enforcement officer or correctional officer
115 of the prosecuting agency's final determination regarding a
116 request for reconsideration.

117 (b) The written policies must be developed by the
118 prosecuting agency in consultation with other agencies that
119 represent law enforcement officers or correctional officers or
120 that will be impacted by the policies.

121 (c) The written policies must be reviewed every 2 years by
122 the prosecuting agency and the other agencies involved in the
123 development of the policies to determine if modifications are
124 needed.

125 (2) Before a prosecuting agency includes the name and

126 information of a law enforcement officer or correctional officer
127 on a Brady Giglio list, the prosecuting agency must send written
128 notice by United States mail or electronic mail to the current
129 or last known employing agency of the officer. Upon receipt of
130 the notice, the law enforcement agency or correctional agency
131 must provide the written notice to the law enforcement officer
132 or correctional officer. The written notice must include, at a
133 minimum, all of the following:

134 (a) Notice that the name and information of the law
135 enforcement officer or correctional officer may be included on a
136 Brady Giglio list.

137 (b) The right of the law enforcement officer or
138 correctional officer to request the documents, records, or other
139 evidence in the possession of the prosecuting agency which will
140 be considered in determining whether inclusion of the name and
141 information of the officer on a Brady Giglio list is proper.

142 (c) The right of the law enforcement officer or
143 correctional officer to review the findings of the prosecuting
144 agency and provide input to the prosecuting agency before the
145 name and information of the officer is placed on a Brady Giglio
146 list.

147 (d) The procedural requirements that a law enforcement
148 officer or correctional officer must follow to provide input,
149 documents, or evidence to the prosecuting agency before the name
150 and information of the officer is placed on a Brady Giglio list.

151 (3) If a prosecuting agency determines by clear and
152 convincing evidence that the name and information of a law
153 enforcement officer or correctional officer should be included
154 on a Brady Giglio list, the prosecuting agency must send written
155 notice of such decision by United States mail or electronic mail
156 to the current or last known employing agency of the officer.
157 Upon receipt of the notice, the law enforcement agency or
158 correctional agency must provide the written notice to the law
159 enforcement officer or correctional officer. The written notice
160 must include, at a minimum, all of the following:

161 (a) The right of the law enforcement officer or
162 correctional officer to request that the prosecuting agency
163 reconsider the determination to include the name and information
164 of the officer on a Brady Giglio list.

165 (b) The applicable time frames and procedural requirements
166 a law enforcement officer or correctional officer must follow to
167 submit a request for reconsideration to the prosecuting agency.

168 (c) A list of evidentiary materials the law enforcement
169 officer or correctional officer may submit to the prosecuting
170 agency which may be considered during the reconsideration.

171 (d) If a law enforcement officer or correctional officer
172 does not submit a request for reconsideration or does not comply
173 with the procedural requirements for submitting a request for
174 reconsideration, the name and information of the officer may
175 remain on a Brady Giglio list.

176 (4) (a) If a law enforcement officer or correctional
177 officer submits a request for reconsideration, the name and
178 information of the officer must be removed from a Brady Giglio
179 list pending the reconsideration. Upon reconsideration of the
180 allegations, documents, and evidence, if the prosecuting agency
181 determines by clear and convincing evidence that inclusion of
182 the name and information of the officer on a list is proper then
183 his or her name and information must be included on the list.

184 (b)1. If the prosecuting agency denies a request for
185 reconsideration, the prosecuting agency must send written notice
186 of such decision by United States mail or electronic mail to the
187 current or last known employing agency of the officer explaining
188 the reason for such denial. Upon receipt of the notice, the law
189 enforcement agency or correctional agency must provide the
190 written notice to the law enforcement officer or correctional
191 officer.

192 2. If the prosecuting agency denies a request for
193 reconsideration, the name and information of a law enforcement
194 officer or correctional officer may remain on a Brady Giglio
195 list.

196 (5) A law enforcement officer or correctional officer
197 whose name and information were included on a Brady Giglio list
198 before July 1, 2023, has all of the following rights:

199 (a) The right to receive written notification from a
200 prosecuting agency that his or her name and information is

201 included on a Brady Giglio list, in addition to the required
 202 information under subsection (3), by October 1, 2023.

203 (b) The right to submit a request for reconsideration
 204 within 10 days after the officer receives the written notice
 205 under paragraph (a).

206 (6) If a prosecuting agency fails to comply with the
 207 requirements of this section, a law enforcement officer or
 208 correctional officer may petition the court for a writ of
 209 mandamus to compel the prosecuting agency to act in accordance
 210 with this section.

211 (7) This section does not:

212 (a) Limit the duty of a prosecuting agency to produce
 213 Brady Giglio evidence in all cases as required by the United
 214 States Constitution, the State Constitution, and the Florida
 215 Rules of Criminal Procedure;

216 (b) Limit or restrict a prosecuting agency's ability to
 217 remove the name and information of a law enforcement officer or
 218 correctional officer from a Brady Giglio list if, at any time,
 219 the prosecuting agency determines that the name and information
 220 of the officer is no longer proper for inclusion on the list; or

221 (c) Create a private cause of action against a prosecuting
 222 agency or any employee of a prosecuting agency.

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