

By Senator Yarborough

4-01117-23

2023618__

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 Brady Giglio lists; prohibiting a
7 law enforcement officer or correctional officer from
8 being discharged, suspended, demoted, or otherwise
9 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 the written policies to be reviewed at a specified
19 interval; requiring a prosecuting agency to provide
20 certain notices to the current or last known employing
21 agency of certain law enforcement officers or
22 correctional officers; requiring employing agencies to
23 provide such notices to law enforcement officers or
24 correctional officers; providing requirements for such
25 notices; requiring a prosecuting agency to remove or
26 retain the name and information of a law enforcement
27 officer or correctional officer on a Brady Giglio list
28 under certain circumstances; providing specified
29 rights to certain law enforcement officers and

4-01117-23

2023618__

30 correctional officers; authorizing a law enforcement
31 officer or correctional officer to petition for a writ
32 of mandamus under certain circumstances; providing
33 construction; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

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

4-01117-23

2023618__

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 to
86 read:

87 112.536 Requirements for maintaining a Brady Giglio list.—

4-01117-23

2023618__

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 timeframes 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.

4-01117-23

2023618__

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 e-mail to the current or last
129 known employing agency of the officer. Upon receipt of the
130 notice, the law enforcement agency or correctional agency must
131 provide the written notice to the law enforcement officer or
132 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) A statement that the law enforcement officer or
138 correctional officer has the right to request the documents,
139 records, or other evidence in the possession of the prosecuting
140 agency which will be considered in determining whether inclusion
141 of the name and information of the officer on a Brady Giglio
142 list is proper.

143 (c) A statement that the law enforcement officer or
144 correctional officer has the right to review the findings of the
145 prosecuting agency and provide input to the prosecuting agency

4-01117-23

2023618__

146 before the name and information of the officer is placed on a
147 Brady Giglio list.

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

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

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

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

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

172 (d) A statement that if a law enforcement officer or
173 correctional officer does not submit a request for
174 reconsideration or does not comply with the procedural

4-01117-23

2023618__

175 requirements for submitting a request for reconsideration, the
176 name and information of the officer may remain on a Brady Giglio
177 list.

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

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

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

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

201 (a) The right to receive written notification from a
202 prosecuting agency that his or her name and information is
203 included on a Brady Giglio list, in addition to the required

4-01117-23

2023618__

204 information under subsection (3), by October 1, 2023.

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

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

213 (7) This section does not:

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

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

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

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