



186046

LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Yarborough) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(1) "Brady identification system" means a list or



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11 identification, in whatever form, of the name or names of law
12 enforcement or correctional officers about whom a prosecuting
13 agency is in possession of impeachment evidence as defined by
14 decision, statute, or rule.

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

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

23 112.532 Law enforcement officers' and correctional
24 officers' rights.—All law enforcement officers and correctional
25 officers employed by or appointed to a law enforcement agency or
26 a correctional agency shall have the following rights and
27 privileges:

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

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

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



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

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

51 112.536 Requirements for maintaining a Brady identification
52 system.-

53 (1) A prosecuting agency is not required to maintain a
54 Brady identification system. A prosecuting agency may determine
55 that its obligations under the Brady decision are better
56 discharged through such procedures as that agency chooses to
57 use.

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

61 (a) The right of a law enforcement officer or a
62 correctional officer to receive written notice through United
63 States mail or e-mail to the current or last known employing
64 agency of the officer, before or contemporaneously with a
65 prosecuting agency including the name and information of the
66 officer in a Brady identification system, unless a pending case
67 requires immediate disclosure or providing notice would
68 jeopardize a pending investigation.



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69 (b) The right of a law enforcement officer or correctional
70 officer to receive written notice before a prosecuting agency
71 includes the name and information of the officer in a Brady
72 identification system.

73 (c) The right of a law enforcement officer or correctional
74 officer to request reconsideration of the prosecuting agency's
75 decision to include the name and information of the officer in a
76 Brady identification system and his or her right to submit
77 documents and evidence in support of the request for
78 reconsideration.

79 (3) If, after the policy provided in subsection (2) is
80 followed, it is determined that the law enforcement officer or
81 correctional officer in question should not be included in a
82 Brady identification system, the prosecuting agency must send
83 notice to the law enforcement officer or correctional officer
84 and his or her employing agency that he or she has been removed
85 from the Brady identification system.

86 (4) If, after the policy provided in subsection (2) is
87 followed, it is determined that the law enforcement officer or
88 correctional officer in question should not be included in a
89 Brady identification system, but his or her name was disclosed
90 in a pending case, the prosecuting agency must take the
91 necessary steps to notify the parties involved in the pending
92 case of the law enforcement officer's or correctional officer's
93 removal from the Brady identification system.

94 (5) If a prosecuting agency fails to comply with this
95 section, a law enforcement officer or a correctional officer may
96 petition the court for a writ of mandamus to compel the
97 prosecuting agency to act in accordance with this section. The



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98 scope of such a hearing may not include a judicial review of the
99 evidence or merits of an officer's inclusion in a Brady
100 identification system, but instead must be limited to whether
101 the prosecuting agency acted in accordance with the procedural
102 requirements of this section. This section does not preclude the
103 law enforcement officer or correctional officer from pursuing
104 whatever administrative or judicial remedies are otherwise
105 available to him or her in relation to any other action or
106 remedy outside of this section.

107 (6) This section does not:

108 (a) Limit the duty of a prosecuting agency to produce Brady
109 evidence in all cases as required by the United States
110 Constitution, the State Constitution, and the Florida Rules of
111 Criminal Procedure and relevant case law;

112 (b) Limit or restrict a prosecuting agency's ability to
113 remove the name and information of a law enforcement officer or
114 correctional officer from a Brady identification system if, at
115 any time, the prosecuting agency determines that the name and
116 information of the officer are no longer proper for
117 identification; or

118 (c) Create a private cause of action against a prosecuting
119 agency or any employee of a prosecuting agency, other than the
120 writ described in subsection (5).

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

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123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete everything before the enacting clause
126 and insert:



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127 A bill to be entitled
128 An act relating to rights of law enforcement officers
129 and correctional officers; amending s. 112.531, F.S.;
130 defining terms; amending s. 112.532, F.S.; providing
131 rights of law enforcement officers and correctional
132 officers relating to a Brady identification system;
133 prohibiting a law enforcement officer or correctional
134 officer from being discharged, suspended, demoted, or
135 otherwise disciplined for certain reasons; providing
136 construction; requiring the employing agency of a law
137 enforcement officer or correctional officer to conform
138 to certain rules and procedures; creating s. 112.536,
139 F.S.; providing that a prosecuting agency is not
140 required to maintain a Brady identification system;
141 authorizing a prosecuting agency to choose different
142 procedures to discharge its obligations under the
143 Brady decision; requiring a prosecuting agency that
144 maintains a Brady identification system to adopt
145 written policies; providing minimum requirements for
146 such policies; requiring a prosecuting agency to
147 provide certain notices to certain law enforcement
148 officers or correctional officers and their employing
149 agency under certain conditions; requiring the
150 prosecuting agency to notify specified parties in a
151 pending case of the removal of the name of a law
152 enforcement officer or a correctional officer from the
153 Brady identification system under certain conditions;
154 authorizing a law enforcement officer or a
155 correctional officer to petition for a writ of



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mandamus under certain circumstances; providing the
scope of the judicial review; providing construction;
providing an effective date.