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LEGISLATIVE ACTION

Senate

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House

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The Appropriations Committee on Criminal and Civil 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 officers or correctional officers about whom a  
13 prosecuting agency is in possession of impeachment evidence as  
14 defined by court 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.



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 name being included in a  
45 Brady identification system. If a collective bargaining  
46 agreement applies, the actions taken by the officer's employing  
47 agency 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) A prosecuting agency is not required to maintain a  
54 Brady identification system and may determine, in its  
55 discretion, that its obligations under the decision in *Brady v.*  
56 *Maryland*, 373 U.S. 83 (1963), are better fulfilled through any  
57 such procedure the prosecuting agency otherwise chooses to  
58 utilize.

59 (b) The employing agency of a law enforcement officer or  
60 correctional officer shall forward all sustained and finalized  
61 internal affairs complaints relevant to s. 90.608, s. 90.609, or  
62 s. 90.610 to the prosecuting agency in the circuit in which the  
63 employing agency is located to assist the prosecuting agency in  
64 complying with its obligations under the *Brady* decision. The  
65 employing agency of a law enforcement officer or correctional  
66 officer must notify the law enforcement officer or correctional  
67 officer of any sustained and finalized internal affairs  
68 complaints that are sent to a prosecuting agency as required



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69 under this section. If the law enforcement officer or  
70 correctional officer is no longer employed by the employing  
71 agency, the employing agency must mail through United States  
72 mail such notification to the officer's last known address on  
73 file with the employing agency.

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

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

91 (3) If, after a request for reconsideration is made under  
92 paragraph (2) (b), 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 all of the following:

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



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98           (b) Send written notice by United States mail or e-mail to  
99 the law enforcement officer or correctional officer at the  
100 officer's current or last known employing agency confirming that  
101 the officer's name has been removed from the Brady  
102 identification system.

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

109           (4) If a prosecuting agency fails to comply with this  
110 section, a law enforcement officer or correctional officer may  
111 petition a court for a writ of mandamus to compel the  
112 prosecuting agency to comply with the requirements of this  
113 section. The court's scope of review in such matter is limited  
114 to whether the prosecuting agency acted in accordance with the  
115 procedural requirements of this section and may not include a  
116 judicial review of the evidence or merits that were the basis  
117 for the inclusion of the officer's name in a Brady  
118 identification system. This section does not preclude a law  
119 enforcement officer or correctional officer from pursuing any  
120 other available administrative or judicial remedies.

121           (5) This section does not:

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

126           1. A criminal conviction that may be used for impeachment



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127 under s. 90.610; or

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

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

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

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

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

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

147 And the title is amended as follows:

148 Delete everything before the enacting clause  
149 and insert:

150 A bill to be entitled  
151 An act relating to rights of law enforcement officers  
152 and correctional officers; amending s. 112.531, F.S.;  
153 providing definitions; amending s. 112.532, F.S.;  
154 providing rights of law enforcement officers and  
155 correctional officers relating to Brady identification



156 systems; prohibiting a law enforcement officer or  
157 correctional officer from being discharged, suspended,  
158 demoted, or otherwise disciplined or threatened with  
159 discipline for certain reasons; providing  
160 construction; requiring the employing agency of a law  
161 enforcement officer or correctional officer to conform  
162 to certain rules and procedures; creating s. 112.536,  
163 F.S.; providing that a prosecuting agency is not  
164 required to maintain a Brady identification system;  
165 authorizing a prosecuting agency to choose different  
166 procedures to fulfill its obligations under a  
167 specified Supreme Court case; requiring the employing  
168 agency of a law enforcement officer or correctional  
169 officer to forward specified information to a  
170 prosecuting agency; requiring an employing agency to  
171 provide certain notice to a law enforcement officer or  
172 correctional officer in specified circumstances;  
173 requiring a prosecuting agency that maintains a Brady  
174 information system to adopt written policies;  
175 providing minimum requirements for such policies;  
176 authorizing a law enforcement officer or correctional  
177 officer to request reconsideration of the inclusion of  
178 his or her name and information in a Brady  
179 identification system; requiring a prosecuting agency  
180 to remove the name of a law enforcement officer or  
181 correctional officer from a Brady identification  
182 system under certain circumstances; requiring a  
183 prosecuting agency to notify a law enforcement officer  
184 or correctional officer and certain parties that the



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185 officer's name is being removed from the Brady  
186 identification system; authorizing a law enforcement  
187 officer or correctional officer to petition for a writ  
188 of mandamus under certain circumstances; providing the  
189 scope of a court's judicial review; providing  
190 construction; providing an effective date.