

By the Appropriations Committee on Criminal and Civil Justice;  
the Committee on Criminal Justice; and Senator Yarborough

604-03773-23

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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 or threatened with  
10      discipline for certain reasons; providing  
11      construction; requiring the employing agency of a law  
12      enforcement officer or correctional officer to conform  
13      to certain rules and procedures; creating s. 112.536,  
14      F.S.; providing that a prosecuting agency is not  
15      required to maintain a Brady identification system;  
16      authorizing a prosecuting agency to choose different  
17      procedures to fulfill its obligations under a  
18      specified Supreme Court case; requiring the employing  
19      agency of a law enforcement officer or correctional  
20      officer to forward specified information to a  
21      prosecuting agency; requiring an employing agency to  
22      provide certain notice to a law enforcement officer or  
23      correctional officer in specified circumstances;  
24      requiring a prosecuting agency that maintains a Brady  
25      information system to adopt written policies;  
26      providing minimum requirements for such policies;  
27      authorizing a law enforcement officer or correctional  
28      officer to request reconsideration of the inclusion of  
29      his or her name and information in a Brady

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

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Present subsections (1) and (2) of section  
46 112.531, Florida Statutes, are redesignated as subsections (2)  
47 and (3), respectively, and a new subsection (1) and subsection  
48 (4) are added to that section, to read:

49 112.531 Definitions.—As used in this part, the term:

50 (1) "Brady identification system" means a list or  
51 identification, in whatever form, of the name or names of law  
52 enforcement officers or correctional officers about whom a  
53 prosecuting agency is in possession of impeachment evidence as  
54 defined by court decision, statute, or rule.

55 (4) "Prosecuting agency" means the Attorney General or an  
56 assistant attorney general, the statewide prosecutor or an  
57 assistant statewide prosecutor, a state attorney or an assistant  
58 state attorney, a city or county attorney, a special prosecutor,

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59 or any other person or entity charged with the prosecution of a  
60 criminal case.

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

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

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

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

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

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88 collective bargaining agreement.

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

91 112.536 Requirements for maintaining a Brady identification  
92 system.-

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

99 (b) The employing agency of a law enforcement officer or  
100 correctional officer shall forward all sustained and finalized  
101 internal affairs complaints relevant to s. 90.608, s. 90.609, or  
102 s. 90.610 to the prosecuting agency in the circuit in which the  
103 employing agency is located to assist the prosecuting agency in  
104 complying with its obligations under the *Brady* decision. The  
105 employing agency of a law enforcement officer or correctional  
106 officer must notify the law enforcement officer or correctional  
107 officer of any sustained and finalized internal affairs  
108 complaints that are sent to a prosecuting agency as required  
109 under this section. If the law enforcement officer or  
110 correctional officer is no longer employed by the employing  
111 agency, the employing agency must mail through United States  
112 mail such notification to the officer's last known address on  
113 file with the employing agency.

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

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

125 (b) The right of a law enforcement officer or correctional  
126 officer to request reconsideration of the prosecuting agency's  
127 decision to include the name and information of the officer in a  
128 Brady identification system and his or her right to submit  
129 documents and evidence in support of the request for  
130 reconsideration.

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

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

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

143 (c) If the name of a law enforcement officer or  
144 correctional officer was previously included in a Brady  
145 identification system and his or her name was disclosed in a

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146 pending criminal case, notify all parties to the pending  
147 criminal case of the officer's removal from the Brady  
148 identification system.

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

161 (5) This section does not:

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

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

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

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

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175 (c) Limit or restrict a prosecuting agency's ability to  
176 remove the name and information of a law enforcement officer or  
177 correctional officer from a Brady identification system if, at  
178 any time, the prosecuting agency determines that the name and  
179 information of the officer are no longer proper for  
180 identification; or

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

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