House



LEGISLATIVE ACTION

Senate . Comm: RCS . 03/20/2023 . .

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

Senate Amendment to Amendment (186046) (with title amendment)

ameno

use.

Delete lines 53 - 120

and insert:

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

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11 (b) A law enforcement officer or correctional officer's 12 employing agency shall forward all sustained and finalized internal affairs complaints, relevant to s. 90.608, s. 90.609, 13 14 or s. 90.610, to the prosecuting agency in the circuit in which 15 the law enforcement agency is located to assist the prosecuting 16 agency in compliance with its obligations under the Brady v. 17 Maryland, 373 U.S. 83 (1963) decision. The employing agency must 18 notify the law enforcement officer or correctional officer of any sustained and finalized internal affairs investigations they 19 20 send to the prosecuting agency as required by this section. If 21 the law enforcement officer or correctional officer is no longer 22 employed, the agency must mail notification to the officer's 23 last known address on file at the agency. 24 (2) A prosecuting agency that maintains a Brady 25 identification system shall adopt written policies that, at a 26 minimum, require all of the following: 27 (a) The right of a law enforcement officer or a 28 correctional officer to receive written notice through United 29 States mail or e-mail to the current or last known employing 30 agency of the officer, before or contemporaneously with a 31 prosecuting agency including the name and information of the 32 officer in a Brady identification system, unless a pending case 33 requires immediate disclosure or providing notice would 34 jeopardize a pending investigation. 35 (b) The right of a law enforcement officer or correctional 36 officer to receive written notice before a prosecuting agency 37 includes the name and information of the officer in a Brady 38 identification system. 39 (c) The right of a law enforcement officer or correctional

653756

40	officer to request reconsideration of the prosecuting agency's
41	decision to include the name and information of the officer in a
42	Brady identification system and his or her right to submit
43	documents and evidence in support of the request for
44	reconsideration.
45	(3) If, after the policy provided in subsection (2) is
46	followed, it is determined that the law enforcement officer or
47	correctional officer in question should not be included in a
48	Brady identification system, the prosecuting agency must send
49	notice to the law enforcement officer or correctional officer
50	and his or her employing agency that he or she has been removed
51	from the Brady identification system.
52	(4) If, after the policy provided in subsection (2) is
53	followed, it is determined that the law enforcement officer or
54	correctional officer in question should not be included in a
55	Brady identification system, but his or her name was disclosed
56	in a pending case, the prosecuting agency must take the
57	necessary steps to notify the parties involved in the pending
58	case of the law enforcement officer's or correctional officer's
59	removal from the Brady identification system.
60	(5) If a prosecuting agency fails to comply with this
61	section, a law enforcement officer or a correctional officer may
62	petition the court for a writ of mandamus to compel the
63	prosecuting agency to act in accordance with this section. The
64	scope of such a hearing may not include a judicial review of the
65	evidence or merits of an officer's inclusion in a Brady
66	identification system, but instead must be limited to whether
67	the prosecuting agency acted in accordance with the procedural
68	requirements of this section. This section does not preclude the

Page 3 of 5

653756

70 whatever administrative or judicial remedies are otherwise 71 available to him or her in relation to any other action or 72 remedy outside of this section. 73 (6) This section does not: 74 (a) Require a prosecuting agency to give notice to or 75 provide an opportunity for review and input from the law 76 enforcement officer or correctional officer if the information 77 in a Brady identification system is the following: 78 1. A criminal conviction relevant to s. 90.610; or 79 2. A sustained and finalized internal affairs complaint 79 relevant to s. 90.608, s. 90.609, or s. 90.610. 81 (b) Limit the duty of a prosecuting agency to produce Brady 82 evidence in all cases as required by the United States 83 Constitution, the State Constitution, and the Florida Rules of 84 Criminal Procedure and relevant case law; 85 (c) Limit or restrict a prosecuting agency's ability to 86 remove the name and information of a law enforcement officer or 87 correctional officer from a Brady identification system if, at 8 any time, the prosecuting agency determines that the name and 9 information of the officer are no longer proper for 8 identification; or 9 (d) Create a private cause of action against a prosecuting 9 agency or any employee of a prosecuting agency, other than the 9 writ described in subsection (5). 9 ====================================	69	law enforcement officer or correctional officer from pursuing
72remedy outside of this section.73(6) This section does not:74(a) Require a prosecuting agency to give notice to or75provide an opportunity for review and input from the law76enforcement officer or correctional officer if the information77in a Brady identification system is the following:781. A criminal conviction relevant to s. 90.610; or792. A sustained and finalized internal affairs complaint80relevant to s. 90.608, s. 90.609, or s. 90.610.81(b) Limit the duty of a prosecuting agency to produce Brady82evidence in all cases as required by the United States83Constitution, the State Constitution, and the Florida Rules of84Criminal Procedure and relevant case law;85(c) Limit or restrict a prosecuting agency's ability to86remove the name and information of a law enforcement officer or87correctional officer from a Brady identification system if, at88any time, the prosecuting agency determines that the name and89information of the officer are no longer proper for91(d) Create a private cause of action against a prosecuting92agency or any employee of a prosecuting agency, other than the93writ described in subsection (5).9495=================================	70	whatever administrative or judicial remedies are otherwise
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97 Delete line 143	96	And the title is amended as follows:
	97	Delete line 143

CJ.CJ.02734

COMMITTEE AMENDMENT

Florida Senate - 2023 Bill No. SB 618



98	and insert:
99	Brady decision; imposing requirements on the current
100	or former employing agency of the law enforcement
101	officer or correctional officer; requiring a
102	prosecuting agency that