

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2132

By: George

7  
8                               COMMITTEE SUBSTITUTE

9           An Act relating to criminal procedure; defining  
10 terms; providing guidelines when evaluating the  
11 credibility of peace officers; authorizing peace  
12 officers to dispute reports of misconduct; directing  
13 the Office of the Attorney General to refer petitions  
14 to an administrative law judge; directing the  
15 administrative law judge to find in favor of the  
16 peace officer under certain circumstances; directing  
17 administrative law judge to make certain  
18 determination based on evidence; requiring copy of  
19 findings of fact and conclusions of law be provided  
20 to the court; providing for codification; and  
21 providing an effective date.

22  
23  
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

25           SECTION 1.       NEW LAW       A new section of law to be codified  
26 in the Oklahoma Statutes as Section 39.1 of Title 22, unless there  
27 is created a duplication in numbering, reads as follows:

28           A. As used in this section:

29           1. "Attorney representing the state" means an attorney  
30 authorized by law to represent the state in a criminal case

1 including, but not limited to, a district attorney or city or  
2 municipal attorney; and

3 2. "Law enforcement agency" means an agency of the state or an  
4 agency of a political subdivision of the state authorized by law to  
5 employ peace officers.

6 B. When evaluating the credibility of a peace officer who is  
7 serving or will serve as a witness in a criminal proceeding, the  
8 attorney representing the state may not disqualify the peace officer  
9 as a witness on the basis of an allegation of misconduct by the  
10 peace officer that has not been finally adjudicated as sustained.

11 C. For purposes of this section, an allegation of misconduct by  
12 a peace officer is not considered finally adjudicated as sustained  
13 if the allegation is under appeal through an administrative process  
14 or judicial proceeding.

15 D. A peace officer who:

16 1. Is the subject of an allegation of misconduct reported by a  
17 law enforcement agency to an attorney representing the state;

18 2. Has been notified of a determination by an attorney  
19 representing the state that the peace officer is not considered  
20 credible to testify in a criminal proceeding as a result of an  
21 allegation of misconduct; or

22 3. Has his or her name placed on a Brady/Giglio list or other  
23 similar list of noncredible peace officers by a law enforcement  
24 agency or an attorney representing the state,

1 may dispute that report, determination, or listing by filing a  
2 petition with the Office of the Attorney General for the purpose of  
3 contesting said allegation, determination, listing, or other similar  
4 action that adversely reflects on the credibility of the peace  
5 officer. Upon request by the affected peace officer, the attorney  
6 representing the state or relevant law enforcement agency shall  
7 provide the underlying facts affecting the credibility of the peace  
8 officer to the peace officer for purposes of a hearing under  
9 subsection E of this section.

10 E. The Office of the Attorney General shall refer the petition  
11 to an administrative law judge for an evidentiary hearing. The  
12 administrative law judge shall provide findings of fact and  
13 conclusions of law as to the validity of the allegations of  
14 misconduct by the peace officer that resulted in the peace officer  
15 being placed on a Brady/Giglio list or similar list of noncredible  
16 peace officers. The respondent in the hearing shall be the law  
17 enforcement agency that reported or alleged the misconduct by the  
18 peace officer.

19 F. 1. If a peace officer has been placed on a Brady/Giglio  
20 list or similar list of noncredible peace officers due to an  
21 allegation of misconduct and the administrative process addressing  
22 said allegation is still pending or has been appealed, the  
23 administrative law judge shall find in favor of the peace officer.  
24

1        2. If the administrative law judge finds the allegations of  
2 misconduct are not supported by a preponderance of the evidence, the  
3 law enforcement agency and attorney for the state may not rely on  
4 said allegations for any purpose. Any court that considers the  
5 credibility of a peace officer who has filed a petition with the  
6 Office of the Attorney General, as authorized under the provisions  
7 of this section, shall be provided a copy of the findings of fact  
8 and conclusions of law issued by the administrative law judge.

9        SECTION 2. This act shall become effective November 1, 2023.

10  
11 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,  
12 dated 02/15/2023 - DO PASS, As Amended.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24