

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1281

By: Hamilton

AS INTRODUCED

An Act relating to law enforcement officers; defining terms; directing prosecuting agencies that maintain Brady-Giglio lists to adopt certain policies; directing prosecuting agencies to provide certain notices; requiring certain information within the notice; directing prosecuting agencies to provide written notice after making certain determinations; requiring certain information within the written notice; authorizing officers to submit requests for reconsideration; providing procedures for requesting reconsideration; stating continuing duty of prosecuting agencies; allowing prosecuting agencies the ability to remove names; stating restriction for causes of action; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

A. As used in this section:

1. "Brady-Giglio list" means a list compiled by a prosecuting agency containing the names and details of officers who have sustained incidents of untruthfulness, criminal convictions, candor

1 issues, or some other type of issue which places the credibility of  
2 the officer into question;

3 2. "Officer" means a certified law enforcement officer, peace  
4 officer, firefighter, emergency medical technician, corrections  
5 officer, detention officer, jailer, probation or parole officer,  
6 communications officer, or any other law enforcement officer  
7 certified by the Council on Law Enforcement Education and Training  
8 and employed by a municipality, county, or state agency; and

9 3. "Prosecuting individual" means the Attorney General, the  
10 district attorney, a special prosecutor, a city attorney, or any  
11 other individual authorized to prosecute crimes in this state.

12 B. A prosecuting individual that maintains a Brady-Giglio list  
13 shall adopt a policy that includes but is not limited to the  
14 following information:

15 1. The criteria used by the prosecuting individual to place an  
16 officer on a Brady-Giglio list;

17 2. The right of the officer to receive written notice before  
18 the prosecuting individual places the officer on a Brady-Giglio  
19 list;

20 3. The right of the officer to provide input to the prosecuting  
21 individual before the prosecuting individual makes a final  
22 determination of whether the officer should be placed on a Brady-  
23 Giglio list;

1        4. The duty of the prosecuting individual to provide notice of  
2 his or her decision regarding placement of the officer on a Brady-  
3 Giglio list;

4        5. The right of the officer to make a request for  
5 reconsideration of the determination of the prosecuting individual  
6 to include the officer on a Brady-Giglio list and to submit  
7 supporting and corroborating documents and evidence in support of  
8 the request for reconsideration made by the officer; and

9        6. The applicable time frame and procedures for notifying the  
10 officer of the final decision of the prosecuting individual on the  
11 request for reconsideration made by the officer.

12        C. Before a prosecuting individual places an officer on a  
13 Brady-Giglio list, the prosecuting individual shall send a written  
14 notice by mail or email to the current or last known employer of the  
15 officer. Upon receipt of the notice, and if the contact information  
16 of the officer is known, the current or last known employer of the  
17 officer shall provide the written notice to the officer. The  
18 written notice shall include but is not limited to the following  
19 information:

20        1. A statement that the officer may be placed on a Brady-Giglio  
21 list maintained by the prosecuting individual;

22        2. The right of the officer to request documents, records, and  
23 any other evidence in the possession of the prosecuting individual  
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1 relevant to the determination of placing an officer on a Brady-  
2 Giglio list maintained by the prosecuting individual;

3 3. The right of the officer to provide information to the  
4 prosecuting individual prior to the prosecuting individual making  
5 his or her final determination; and

6 4. The procedural requirements for an officer to provide  
7 information to the prosecuting individual prior to the prosecuting  
8 individual's final determination, including the method and time  
9 frame for submitting the request for reconsideration and any  
10 supporting and corroborating documents and evidence from any  
11 pertinent sources.

12 D. If a prosecuting individual makes the determination to place  
13 an officer on a Brady-Giglio list, the prosecuting individual shall  
14 send a written notice by United States Postal Service or electronic  
15 mail to the current or last known employer of the officer. Upon  
16 receipt of the notice, and if the contact information of the officer  
17 is known, the current or last known employer of the officer shall  
18 provide the written notice to the officer. The written notice shall  
19 include but is not limited to the following information:

20 1. The right of the officer to make a request to reconsider his  
21 or her placement on the Brady-Giglio list maintained by the  
22 prosecuting individual;

23 2. The procedural requirements for an officer to provide  
24 information to the prosecuting individual prior to the prosecuting

1 individual's final determination, including the method and time  
2 frame for submitting the request for reconsideration and any  
3 supporting and corroborating documents and evidence from any  
4 pertinent sources; and

5 3. A statement that, if the officer intends to make a request  
6 for reconsideration, the officer must submit the written request for  
7 reconsideration to the prosecuting individual within thirty (30)  
8 days of the notice being sent to the officer's current or last known  
9 employer.

10 E. If an officer submits a request for reconsideration pursuant  
11 to this subsection and the request for reconsideration made by the  
12 officer is approved by the prosecuting individual, the officer shall  
13 be removed from the Brady-Giglio list maintained by the prosecuting  
14 individual. If the request for reconsideration made by the officer  
15 is denied by the prosecuting individual, the name of the officer  
16 shall remain on the Brady-Giglio list maintained by the prosecuting  
17 individual. If the officer does not submit a request for  
18 reconsideration or fails to comply with the requirements for  
19 submitting a request for reconsideration, the name of the officer  
20 shall remain on the Brady-Giglio list maintained by the prosecuting  
21 individual.

22 F. An officer whose name was placed on the Brady-Giglio list  
23 maintained by the prosecuting individual prior to the effective date  
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1 of this act shall have the right to request reconsideration as  
2 follows:

3 1. A prosecuting individual who maintains a Brady-Giglio list  
4 prior to the effective date of this act shall notify all officers on  
5 the list within ninety (90) days of the effective date of this act,  
6 pursuant to provisions of subsection D of this section; and

7 2. Upon receipt of a notification from a prosecuting individual  
8 pursuant to paragraph 1 of this subsection, the officer who intends  
9 to make a request for reconsideration must submit the written  
10 request to the prosecuting individual within thirty (30) days of the  
11 notice being sent to the officer's current or last known employer.

12 G. The provisions of this section shall not be construed to  
13 limit the duty of a prosecuting individual to produce Brady-Giglio  
14 discovery evidence in all cases as required by the Constitution of  
15 the United States, the Constitution of this state, and the rules of  
16 criminal procedure, including after the initial placement of an  
17 officer on a Brady-Giglio list, while the decision or a request for  
18 reconsideration is still under consideration.

19 H. The provisions of this section shall not be construed to  
20 limit or restrict the ability of a prosecuting individual to remove  
21 an officer from a Brady-Giglio list if, upon receipt of additional  
22 supporting and corroborating information or a change in factual  
23 circumstances at any time, the prosecuting individual determines  
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1 that the officer no longer requires placement on a Brady-Giglio  
2 list.

3 I. The provisions of this section shall not create a private  
4 cause of action against a prosecuting individual or an employee of a  
5 prosecuting individual for any damages caused by the inclusion of an  
6 officer on a Brady-Giglio list maintained by a prosecuting  
7 individual.

8 SECTION 2. This act shall become effective November 1, 2024.

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