

House File 2496 - Enrolled

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AN ACT

RELATING TO THE PROCEDURAL REQUIREMENTS FOR PLACING AN
OFFICER'S NAME ON A BRADY-GIGLIO LIST, AND FOR A PROSECUTING
AGENCY DISCLOSING EXCULPATORY EVIDENCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 80F.1, subsection 1, Code 2022, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0a.* "*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 issues, or some other type of issue which places the officer's credibility into question. This paragraph is repealed July 1, 2023.

NEW PARAGRAPH. *0f.* "*Prosecuting agency*" means the attorney general, an assistant attorney general, the county attorney, an assistant county attorney, a special prosecutor, a city attorney, or an assistant city attorney.

Sec. 2. Section 80F.1, subsection 23, paragraph a, Code 2022, is amended to read as follows:

a. An officer shall not be discharged, disciplined, or threatened with discharge or discipline by a state, county, or municipal law enforcement agency solely due to a prosecuting attorney agency making a determination or disclosure that exculpatory evidence exists concerning the officer.

Sec. 3. Section 80F.1, subsection 23, paragraph c, Code 2022, is amended by striking the paragraph.

Sec. 4. Section 80F.1, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 24. a. A prosecuting agency that maintains a Brady-Giglio list shall adopt a policy that, at a minimum, includes all of the following:

(1) The criteria used by the prosecuting agency to place an officer's name on a Brady-Giglio list.

(2) The officer's right to receive written notice before the prosecuting agency places the officer's name on a Brady-Giglio list, and the officer's right to provide input to the prosecuting agency before the prosecuting agency makes a determination of whether the officer's name should be placed on a Brady-Giglio list.

(3) The duty of the prosecuting agency to provide notice of the prosecuting agency's decision regarding placement of the officer's name on a Brady-Giglio list.

(4) The officer's right to make a request for reconsideration of the prosecuting agency's determination to include the officer's name on a Brady-Giglio list and to submit supporting and corroborating documents and evidence in support of the officer's request for reconsideration.

(5) The applicable time frame and procedures for notifying the officer of the prosecuting agency's final decision on an officer's request for reconsideration.

b. Before a prosecuting agency places an officer's name on a Brady-Giglio list, the prosecuting agency shall send a written notice by mail or email to the officer's current or last known employment address. Upon receipt of the notice, and if the officer's contact information is known, the officer's current or last known employer shall provide the written notice to the

officer. The written notice shall include, at a minimum, all of the following:

(1) A notice that the officer's name may be placed on a Brady-Giglio list.

(2) The officer's right to request documents, records, and any other evidence in the possession of the prosecuting agency relevant to the determination of whether the officer's name should be placed on a Brady-Giglio list from the prosecuting agency.

(3) The officer's right to provide input to the prosecuting agency prior to the prosecuting agency's determination of whether the officer's name should be placed on a Brady-Giglio list.

(4) The prosecuting agency's procedural requirements for an officer to provide input to the prosecuting agency prior to the prosecuting agency's determination of whether the officer's name should be placed on a Brady-Giglio list.

c. If the prosecuting agency makes a determination to place the officer's name on a Brady-Giglio list, the prosecuting agency shall send a written notice by mail or email to the officer's current or last known employment address. Upon receipt of the notice, and if the officer's contact information is known, the officer's current or last known employer shall provide the written notice to the officer. The written notice shall include, at a minimum, all of the following:

(1) The officer's right to make a request to reconsider the allegations and the placement of the officer's name on a Brady-Giglio list.

(2) The prosecuting agency's procedural requirements for submitting a written request for reconsideration of the prosecuting agency's determination to place the officer's name on a Brady-Giglio list including the method and time frame for submitting the request for reconsideration and any supporting and corroborating documents and evidence from any pertinent sources.

(3) A statement that, if the officer intends to make a request for reconsideration, the officer must submit the written request for reconsideration to the prosecuting agency within ten business days after receiving the notice.

d. If an officer submits a request for reconsideration pursuant to this subsection and the officer's request for reconsideration is approved by the prosecuting agency on its merits, the officer's name shall be removed from the Brady-Giglio list. If the officer's request for reconsideration is denied by the prosecuting agency, the officer's name shall remain on the Brady-Giglio list. If the officer does not submit a request for reconsideration or fails to comply with the requirements for submitting a request for reconsideration, the officer's name shall remain on the Brady-Giglio list.

e. An officer whose name was placed on a Brady-Giglio list prior to the effective date of this Act shall have the right to request reconsideration as follows:

(1) A prosecuting agency shall notify the officer, within ninety days of the effective date of this Act, and provide the officer with the information required under paragraph "c".

(2) Upon receipt of a notification from a prosecuting agency pursuant to subparagraph (1), an officer shall have ten days to request reconsideration.

f. This subsection does not limit the duty of a prosecuting agency to produce Brady-Giglio discovery evidence in all cases as required by the Constitution of the United States, the Constitution of the State of Iowa, and the rules of criminal procedure, including after the initial placement of the officer's name on a Brady-Giglio list, while the decision or a request for reconsideration is still under consideration.

g. This subsection does not limit or restrict a prosecuting agency's ability to remove an officer's name from a Brady-Giglio list if, upon receipt of additional supporting and corroborating information or a change in factual circumstances at any time, the prosecuting agency determines that the officer's name no longer requires placement on a Brady-Giglio list.

h. This subsection does not create a private cause of action against a prosecuting agency or an employee of a prosecuting agency.

i. This subsection is repealed July 1, 2023.

PAT GRASSLEY
Speaker of the House

JAKE CHAPMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2496, Eighty-ninth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2022

KIM REYNOLDS
Governor