

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2223

By: Ford

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6 AS INTRODUCED

7 An Act relating to law enforcement officers; defining
8 terms; directing prosecuting agencies that maintain
9 Brady-Giglio lists to adopt certain policies;
10 directing prosecuting agencies to send written notice
11 or email to officer prior to placing the officer on
12 the list; providing information to be included in the
13 written notice; directing prosecuting agencies to
14 send written notice or email after making certain
15 determination; providing information to be included
16 in the written notice; authorizing officers to submit
17 requests for reconsideration; providing procedures
18 for requesting reconsideration; stating continuing
19 duty of prosecuting agencies to produce Brady-Giglio
20 evidence; allowing prosecuting agencies the ability
21 to remove names when necessary; stating restriction
22 for causes of action; providing for codification; and
23 providing an effective date.

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

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

22 A. As used in this section:

23 1. "Brady-Giglio list" means a list compiled by a prosecuting
24 agency containing the names and details of officers who have

1 sustained incidents of untruthfulness, criminal convictions, candor
2 issues, or some other type of issue which places the credibility of
3 the officer into question;

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

10 3. "Prosecuting agency" means the Attorney General, an
11 Assistant Attorneys General, the district attorney, an assistant
12 district attorney, a special prosecutor, a city attorney, or an
13 assistant city attorney.

14 B. A prosecuting agency that maintains a Brady-Giglio list
15 shall adopt a policy that, at a minimum, includes all of the
16 following:

17 1. The criteria used by the prosecuting agency to place the
18 name of an officer on a Brady-Giglio list;

19 2. The right of the officer to receive written notice before
20 the prosecuting agency places the name of the officer on a Brady-
21 Giglio list, and the right of the officer to provide input to the
22 prosecuting agency before the prosecuting agency makes a
23 determination of whether the name of the officer should be placed on
24 a Brady-Giglio list;

1 3. The duty of the prosecuting agency to provide notice of the
2 decision of the prosecuting agency regarding placement of the name
3 of the officer on a Brady-Giglio list;

4 4. The right of the officer to make a request for
5 reconsideration of the determination of the prosecuting agency to
6 include the name of 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 5. The applicable time frame and procedures for notifying the
10 officer of the final decision of the prosecuting agency on request
11 for reconsideration made by the officer.

12 C. Before a prosecuting agency places the name of an officer on
13 a Brady-Giglio list, the prosecuting agency shall send a written
14 notice by mail or email to the current or last known employment
15 address of the officer. Upon receipt of the notice, and if the
16 contact information of the officer is known, the current or last
17 known employer of the officer shall provide the written notice to
18 the officer. The written notice shall include, at a minimum, all of
19 the following:

20 1. A notice that the name of the officer may be placed on a
21 Brady-Giglio list;

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

3 3. The right of the officer to provide input to the prosecuting
4 agency prior to its determination of whether the name of the officer
5 should be placed on a Brady-Giglio list; and

6 4. The procedural requirements of the prosecuting agency for an
7 officer to provide input to the prosecuting agency prior to its
8 determination of whether the name of the officer should be placed on
9 a Brady-Giglio list.

10 D. If the prosecuting agency makes a determination to place the
11 name of an officer on a Brady-Giglio list, the prosecuting agency
12 shall send a written notice by mail or email to the current or last
13 known employment address of the officer. Upon receipt of the
14 notice, and if the contact information of the officer is known, the
15 current or last known employer of the officer shall provide the
16 written notice to the officer. The written notice shall include, at
17 a minimum, all of the following:

18 1. The right of the officer to make a request to reconsider the
19 allegations and the placement of the name of the officer on a Brady-
20 Giglio list;

21 2. The procedural requirements of the prosecuting agency for
22 submitting a written request for reconsideration of the
23 determination made by the prosecuting agency to place the name of
24 the officer on a Brady-Giglio list including the method and time

1 frame for submitting the request for reconsideration and any
2 supporting and corroborating documents and evidence from any
3 pertinent sources; and

4 3. A statement that, if the officer intends to make a request
5 for reconsideration, the officer must submit the written request for
6 reconsideration to the prosecuting agency within ten (10) business
7 days after receiving the notice.

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

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

21 1. A prosecuting agency shall notify the officer, within ninety
22 (90) days of the effective date of this act, and provide the officer
23 with the information required under the provisions of subsection D
24 of this section.

1 2. Upon receipt of a notification from a prosecuting agency
2 pursuant to paragraph 1 of this subsection, an officer shall have
3 ten (10) days to request reconsideration.

4 G. The provisions of this section does not limit the duty of a
5 prosecuting agency to produce Brady-Giglio discovery evidence in all
6 cases as required by the Constitution of the United States, the
7 Constitution of the State of Oklahoma, and the rules of criminal
8 procedure, including after the initial placement of the name of an
9 officer on a Brady-Giglio list, while the decision or a request for
10 reconsideration is still under consideration.

11 H. The provisions of this section do not limit or restrict the
12 ability of a prosecuting agency to remove the name of an officer
13 from a Brady-Giglio list if, upon receipt of additional supporting
14 and corroborating information or a change in factual circumstances
15 at any time, the prosecuting agency determines that the name of the
16 officer no longer requires placement on a Brady-Giglio list.

17 I. The provisions of this section does not create a private
18 cause of action against a prosecuting agency or an employee of a
19 prosecuting agency.

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

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22 59-1-5784 GRS 01/11/23

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