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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3890

02/15/2024 Authored by Wolgamott, Novotny, Witte and Lislegard The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; providing for a Brady-Giglio designation for peace
1.3 officers; proposing coding for new law in Minnesota Statutes, chapter 626.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [626.893] BRADY-GIGLIO.

1.6 Subdivision 1. Definition. "Brady-Giglio designation" means a designation made or list
1.7 compiled by a prosecuting agency containing the names and details of peace officers who
1.8 have sustained incidents of untruthfulness, criminal convictions, candor issues, or other
1.9 issue that places the officer's credibility into question.

1.10 Subd. 2. Confidential employment data. The employing state or local law enforcement
1.11 agency shall keep a peace officer's statement, recordings, or transcripts of any interviews
1.12 or disciplinary proceedings, and any complaints made against a peace officer confidential
1.13 unless otherwise provided by law or with the officer's written consent. Nothing in this section
1.14 prohibits the release of an officer's statement, recordings, or transcripts of any interviews
1.15 or disciplinary proceedings and any complaints made against an officer to the officer or the
1.16 officer's legal counsel upon the officer's request.

1.17 Subd. 3. Employee data request. Upon written request, the employing state or local
1.18 law enforcement agency shall provide to the requesting peace officer or the officer's legal
1.19 counsel a copy of the officer's personnel file and training records regardless of whether the
1.20 officer is subject to a formal administrative investigation at the time of the request.

1.21 Subd. 4. Officer discharge. (a) A peace officer shall not be discharged, disciplined, or
1.22 threatened with discharge or discipline by a state or local law enforcement agency solely

2.1 due to a prosecuting agency making a determination or disclosure that exculpatory evidence
2.2 exists concerning the officer.

2.3 (b) This subdivision does not prohibit a law enforcement agency from investigating an
2.4 officer based on the underlying actions that resulted in the exculpatory evidence being
2.5 withheld. If a collective bargaining agreement applies, the actions taken by the law
2.6 enforcement agency shall conform to the rules and procedures adopted by the collective
2.7 bargaining agreement.

2.8 Subd. 5. **Prosecuting agency policy.** (a) A prosecuting agency that has made a
2.9 Brady-Giglio designation shall adopt a policy that, at a minimum, includes:

2.10 (1) the criteria used by the prosecuting agency to designate a peace officer as Brady-Giglio
2.11 impaired or otherwise place an officer on a Brady-Giglio list;

2.12 (2) the officer's right to receive written notice before the prosecuting agency designates
2.13 an officer as Brady-Giglio impaired or otherwise places an officer on a Brady-Giglio list,
2.14 and the officer's right to provide input and evidence, if any, to the prosecuting agency before
2.15 the prosecuting agency makes a determination of whether the officer should be designated
2.16 as Brady-Giglio impaired or otherwise placed on a Brady-Giglio list;

2.17 (3) the duty of the prosecuting agency to provide notice of the prosecuting agency's
2.18 decision regarding a designation of an officer as Brady-Giglio impaired or placement of the
2.19 officer on a Brady-Giglio list;

2.20 (4) the officer's right to request reconsideration of the prosecuting agency's determination
2.21 to designate an officer as Brady-Giglio impaired or otherwise include the officer on a
2.22 Brady-Giglio list and to submit supporting and corroborating documentation and evidence
2.23 in support of the officer's request for reconsideration; and

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

2.26 (b) Before a prosecuting agency designates an officer as Brady-Giglio impaired or
2.27 otherwise places an officer on a Brady-Giglio list, the prosecuting agency shall send a
2.28 written notice by United States mail or email to the officer's current or last known
2.29 employment address. Upon receipt of the notice, and if the officer's contact information is
2.30 known, the officer's current or last known employer shall provide the written notice to the
2.31 officer. The written notice shall include, at a minimum:

2.32 (1) that the officer's name may be designated as Brady-Giglio impaired or otherwise
2.33 placed on a Brady-Giglio list;

3.1 (2) the officer's right to request documents, records, and any other evidence in the
3.2 possession of the prosecuting agency relevant to the determination of whether the officer
3.3 should be designated as Brady-Giglio impaired or otherwise placed on a Brady-Giglio list
3.4 by the prosecuting agency;

3.5 (3) the officer's right to provide input to the prosecuting agency prior to the prosecuting
3.6 agency's determination of whether to designate the officer as Brady-Giglio impaired or
3.7 whether the officer should be placed on a Brady-Giglio list; and

3.8 (4) the prosecuting agency's procedural requirements for an officer to provide input and
3.9 evidence, if any, to the prosecuting agency prior to the prosecuting agency's determination
3.10 of whether to designate the officer as Brady-Giglio impaired or whether the officer should
3.11 be placed on a Brady-Giglio list.

3.12 (c) If the prosecuting agency designates the officer as Brady-Giglio impaired or otherwise
3.13 places the officer on a Brady-Giglio list, the prosecuting agency shall send a written notice
3.14 by United States mail or email to the officer's current or last known employment address.
3.15 Upon receipt of the notice, and if the officer's contact information is known, the officer's
3.16 current or last known employer shall provide the written notice to the officer. The written
3.17 notice shall include, at a minimum:

3.18 (1) the officer's right to request reconsideration of the allegations and the designation
3.19 of the officer as Brady-Giglio impaired or the placement of the officer on a Brady-Giglio
3.20 list;

3.21 (2) the prosecuting agency's procedural requirements for submitting a written request
3.22 for reconsideration of the prosecuting agency's determination that an officer is Brady-Giglio
3.23 impaired to place the officer on a Brady-Giglio list, including the method and time frame
3.24 for submitting the request for reconsideration and any supporting and corroborating
3.25 documents and evidence from any pertinent sources that may be submitted and considered;
3.26 and

3.27 (3) a statement that, if the officer intends to request reconsideration, the officer must
3.28 submit the written request for reconsideration and any supporting documentation to the
3.29 prosecuting agency within ten business days after receiving the notice from the prosecuting
3.30 agency.

3.31 (d) If an officer submits a request for reconsideration pursuant to this subdivision and
3.32 the officer's request for reconsideration is approved by the prosecuting agency on its merits,
3.33 the Brady-Giglio designation and placement of the officer on a Brady-Giglio list shall be
3.34 removed. If the officer's request for reconsideration is denied by the prosecuting agency,

4.1 the Brady-Giglio designation and placement of the officer on a Brady-Giglio list shall
4.2 remain.

4.3 (e) An officer who was designated as Brady-Giglio impaired or who was otherwise
4.4 placed on a Brady-Giglio list before the effective date of this section shall have the right to
4.5 request reconsideration of that designation or placement as follows:

4.6 (1) a prosecuting agency shall notify the officer within 90 days of the effective date of
4.7 this section and shall provide the officer with the information required in this section; and

4.8 (2) upon receipt of a notification from a prosecuting agency pursuant to clause (1), an
4.9 officer shall have ten days to request reconsideration as provided in this subdivision.

4.10 (f) This subdivision does not limit the duty of a prosecuting agency to produce
4.11 Brady-Giglio discovery evidence in all cases as required by the United States Constitution,
4.12 the Minnesota Constitution, and the Rules of Criminal Procedure upon completion of the
4.13 process and procedure under this section.

4.14 (g) This subdivision does not limit or restrict a prosecuting agency's right to remove a
4.15 designation that an officer is Brady-Giglio impaired or placement of an officer from a
4.16 Brady-Giglio list if, upon receipt of additional supporting and corroborating information or
4.17 a change in factual circumstances at any time, the prosecuting agency determines that the
4.18 Brady-Giglio designation or placement of an officer on a Brady-Giglio list is no longer
4.19 appropriate.

4.20 Subd. 6. **Release of information.** A prosecuting agency shall keep confidential and shall
4.21 not release to the public an officer's personnel file, medical records, or any statement,
4.22 recording, transcript, or complaint unless otherwise provided by law or with the officer's
4.23 written consent. Nothing in this subdivision shall be construed to prohibit the release of
4.24 records to the officer or the officer's legal counsel as required under this section upon the
4.25 request of the officer or the officer's legal counsel or as otherwise provided by law or court
4.26 order.

4.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.