

AMENDMENTS TO LB 965  
(Amendments to E and R amendments, ER180)

Introduced by Bosn, 25.

1           1. Strike section 24 and insert the following new sections:

2           **Sec. 24.**   (1)(a) This section applies to any county with a  
3 population of one hundred thousand or more inhabitants.

4           (b) For a county which includes a city of the metropolitan or  
5 primary class, the county attorney and city attorney of such city shall  
6 operate under an interlocal agreement to fulfill the requirements of this  
7 section.

8           (2) Before a prosecuting agency names an officer in a Brady-Giglio  
9 disclosure, the prosecuting agency shall fulfill the requirements of this  
10 section.

11           (3)(a) The prosecuting agency shall create an informal advisory  
12 committee for evaluating possible Brady-Giglio disclosures. The advisory  
13 committee shall provide recommendations to county attorneys, city  
14 attorneys, and special prosecutors within the county. Each such  
15 prosecuting agency retains ultimate discretion on whether to name an  
16 officer in a Brady-Giglio disclosure.

17           (b)(i) For a county which includes a city of the metropolitan class  
18 or primary class, the advisory committee shall be comprised of two  
19 prosecutors appointed by the county attorney and two prosecutors  
20 appointed by the city attorney for such city.

21           (ii) For any other county with a population of one hundred thousand  
22 or more inhabitants, the advisory committee shall be comprised of four  
23 prosecutors appointed by the county attorney, with two of such  
24 prosecutors being from jurisdictions within the county and two  
25 prosecutors from jurisdictions in any other Nebraska county or counties.

26           (4) Each prosecuting agency shall adopt a process for reviewing and

1 making determinations for prospective Brady-Giglio disclosures that  
2 includes the following provisions:

3 (a) The prosecuting agency shall provide an officer with written  
4 notice, including the proposed rationale, before determining whether such  
5 officer is subject to a prospective Brady-Giglio disclosure. An officer  
6 shall have the right to be represented by counsel at every stage of  
7 determination under this subsection;

8 (b) The prosecuting agency shall provide the officer with a  
9 reasonable opportunity to respond to the proposed determination;

10 (c)(i) If an officer in good faith contests the proposed  
11 determination, the prosecuting agency shall request the advisory  
12 committee to make a recommendation on whether to name the officer in a  
13 prospective disclosure.

14 (ii) The prosecuting agency shall provide the advisory committee  
15 with materials that support or corroborate naming the officer in such  
16 prospective disclosure and any exculpatory materials provided by the  
17 officer.

18 (iii) The advisory committee may request further information from  
19 the officer or prosecuting agency, including oral testimony from the  
20 officer, and may conduct an informal hearing.

21 (iv) The advisory committee shall make a recommendation to the  
22 prosecuting agency as to whether a prospective disclosure is required  
23 under Brady-Giglio case law and shall provide written notice of such  
24 recommendation to the prosecuting agency; and

25 (d) The prosecuting agency shall consider, but is not bound by, the  
26 recommendation of the advisory committee. Upon the prosecuting agency  
27 making a final decision on whether to name such officer in a prospective  
28 Brady-Giglio disclosure, the prosecuting agency shall provide written  
29 notice to the officer of its final decision.

30 (5) The requirements of this section apply to any officer subject to  
31 a prospective Brady-Giglio disclosure made on or after the operative date

1 of this section. This section applies even if an officer was named in a  
2 related or similar Brady-Giglio disclosure prior to the operative date of  
3 this section, unless such officer has already received notice and an  
4 opportunity to be heard substantially similar to that required under this  
5 section.

6 (6) Evidence presented to an advisory committee under this section  
7 shall be kept confidential unless otherwise provided by law.

8 **Sec. 25.** (1) This section applies to any county with a population  
9 of fewer than one hundred thousand inhabitants.

10 (2) A prosecuting agency shall provide an officer with written  
11 notice, including the proposed rationale, when determining whether the  
12 officer is subject to a prospective Brady-Giglio disclosure and shall  
13 also provide written notice of the prosecuting agency's final decision on  
14 such disclosure.

15 **Sec. 26.** (1)(a) An officer aggrieved by a prosecuting agency's final  
16 decision to name the officer in a Brady-Giglio disclosure may file a  
17 petition in the district court seeking review of such decision.

18 (b) For an officer in a county with one hundred thousand or more  
19 inhabitants:

20 (i) Prior to filing the petition, the officer shall complete the  
21 informal advisory committee process under section 24 of this act; and

22 (ii) The petition shall be filed within ten days after receiving  
23 written notice of the prosecuting agency's final decision under  
24 subdivision (4)(d) of section 24 of this act.

25 (c) For an officer in a county with fewer than one hundred thousand  
26 inhabitants, the petition shall be filed within ten days after receiving  
27 written notice of the prosecuting agency's final decision under section  
28 25 of this act.

29 (2) Within ten days after filing the petition, the officer shall  
30 provide a complete record to the court, including, but not limited to, a  
31 bill of exceptions, transcripts, orders, findings, statements,

1 investigations, any records pertaining to such officer that have been  
2 sealed pursuant to section 29-3523, and any other material that led to  
3 the prosecuting agency's decision to name the officer in a Brady-Giglio  
4 disclosure. Nothing in this section shall give the officer the right to  
5 obtain records from a prosecuting agency.

6 (3) Within ten days after the record being filed, notice of the  
7 action shall be provided to any prosecuting agency named in the petition.  
8 Any named prosecuting agency may review the record provided to the court  
9 and provide an answer to the petition within ten days after being served  
10 with the petition.

11 (4) The prosecuting agency shall provide the court with all  
12 materials that led to the decision to name the officer in a Brady-Giglio  
13 disclosure, including, if applicable, copies of all materials provided to  
14 the advisory committee under section 24 of this act. The prosecuting  
15 agency may request the court to direct the officer to provide  
16 supplemental records. Upon receipt of the request, the court may direct  
17 the officer to supplement the record as requested. If a prosecuting  
18 agency requests a supplemental record, the agency shall have ten days  
19 from the filing of the supplemental record to file an answer to the  
20 petition. If an officer fails to supplement the record as ordered by the  
21 court, the court shall dismiss the petition.

22 (5) Any petition, answer, or record submitted as part of the review  
23 shall be sealed from public view and shall not be a public record.

24 (6) Within sixty days after the prosecuting agency filing an answer,  
25 the court shall, without written or oral arguments, conduct an in camera  
26 review of the records filed in the case. If the court determines  
27 additional evidence or testimony is necessary, the court shall conduct  
28 further hearings as necessary, including questioning witnesses in camera  
29 or directing the parties to further supplement the record.

30 (7) The court may modify or disagree with a prosecuting agency's  
31 decision to the extent that the court finds, by clear and convincing

1 evidence, that the information or actions of the officer that served as  
2 the rationale for the Brady-Giglio disclosure would not be exculpatory  
3 evidence in the prosecution of any criminal offense.

4 (8) If the court determines that the officer has failed to meet his  
5 or her burden of proof, the court shall dismiss the petition.

6 2. On page 25, line 30; and page 30, lines 2 and 3, strike "27" and  
7 insert "29".

8 3. Renumber the remaining sections, correct internal references, and  
9 correct the operative date section so that the sections added by this  
10 amendment become operative on October 1, 2026.