

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1123

Introduced by Bostar, 29.

Read first time January 16, 2026

Committee:

1 A BILL FOR AN ACT relating to public safety; to amend section 28-610,
2 Reissue Revised Statutes of Nebraska, and section 28-1205, Revised
3 Statutes Supplement, 2025; to provide protections for certain public
4 safety personnel as prescribed; to define terms; to provide
5 requirements relating to Brady-Giglio lists; to provide
6 confidentiality for officers; to provide duties for prosecuting
7 agencies and public safety agencies; to prohibit retaliation; to
8 change the penalty for impersonating a peace officer; to harmonize
9 provisions; to provide operative dates; to provide severability; and
10 to repeal the original sections.

11 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** For purposes of sections 1 to 11 of this act:

2 (1) Brady-Giglio case law means Brady v. Maryland, 373 U.S. 83
3 (1963), and Giglio v. United States, 405 U.S. 150 (1972), and subsequent
4 cases of the Supreme Court of the United States and the Supreme Court of
5 Nebraska;

6 (2) Brady-Giglio list means a list compiled by a prosecuting agency
7 containing the names and details of officers who are alleged to have
8 impaired their own credibility, due to misconduct, bias, or otherwise,
9 such that disclosure to a criminal defendant would be required under
10 Brady-Giglio case law;

11 (3) Law enforcement agency has the same meaning as in section
12 81-1401;

13 (4) Law enforcement officer has the same meaning as in section
14 81-1401;

15 (5) Officer means:

16 (a) A law enforcement officer; or

17 (b) A correctional officer employed by a jail or by the Department
18 of Correctional Services;

19 (6) Prosecuting agency means the Department of Justice, the office
20 of a county attorney or city attorney, or a special prosecutor; and

21 (7) Public safety agency means:

22 (a) A law enforcement agency;

23 (b) A city or county jail;

24 (c) The Department of Correctional Services; or

25 (d) Any other agency of state or local government that employs
26 officers.

27 **Sec. 2.** (1) An officer shall not be discharged, disciplined, or
28 threatened with discharge or discipline, or subject to revocation or
29 suspension of a certificate under sections 81-1401 to 81-1414.19, solely
30 because a prosecuting agency has:

31 (a) Placed an officer on a Brady-Giglio list or determined that such

1 officer may be placed on such a list; or

2 (b) Disclosed to any person that an officer is on a Brady-Giglio
3 list or under consideration to be placed on such a list.

4 (2) This section does not prohibit a dismissal, suspension,
5 demotion, or any other disciplinary action against an officer, or against
6 a certificate issued under sections 81-1401 to 81-1414.19, based on the
7 underlying action that resulted in such officer being placed on a Brady-
8 Giglio list or being considered for placement on such list.

9 **Sec. 3.** A prosecuting agency that maintains a Brady-Giglio list
10 shall adopt a policy that, at a minimum, includes all of the following:

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

13 (2) The officer's right to receive written notice before the
14 prosecuting agency places the officer's name on a Brady-Giglio list,
15 including the proposed rationale for placing such officer's name on the
16 list, and the officer's right to provide input to the prosecuting agency
17 before the prosecuting agency makes a determination of whether the
18 officer's name should be placed on a Brady-Giglio list;

19 (3) The duty of the prosecuting agency to provide notice of the
20 prosecuting agency's decision regarding placement of the officer's name
21 on a Brady-Giglio list and the rationale for placing such officer's name
22 on the list;

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

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

30 **Sec. 4.** (1) Before a prosecuting agency places an officer's name on
31 a Brady-Giglio list, the prosecuting agency shall send a written notice

1 by mail or email to the officer's current or last known employment
2 address. Upon receipt of the notice, and if the officer's contact
3 information is known, the officer's current or last known employer shall
4 provide the written notice to the officer. The written notice shall
5 include, at a minimum, all of the following:

6 (a) A notice that the officer's name may be placed on a Brady-Giglio
7 list and the proposed rationale for placing such officer's name on the
8 list;

9 (b) An explanation of the officer's right to request any document,
10 record, or other evidence in the possession of the prosecuting agency
11 relevant to the determination of whether the officer's name should be
12 placed on a Brady-Giglio list;

13 (c) An explanation of the officer's right to provide input to the
14 prosecuting agency prior to the prosecuting agency's determination of
15 whether the officer's name should be placed on a Brady-Giglio list;

16 (d) An explanation of the prosecuting agency's procedural
17 requirements for an officer to provide input to the prosecuting agency
18 prior to the prosecuting agency's determination of whether the officer's
19 name should be placed on a Brady-Giglio list; and

20 (e) Notice of the procedures the prosecuting agency uses to
21 determine what evidence is exculpatory evidence that must be disclosed to
22 a criminal defendant under Brady-Giglio case law and the procedures the
23 prosecuting agency will use to determine whether such evidence will be
24 admissible for the purposes of a challenge to the testimony of the
25 officer.

26 (2) If the prosecuting agency makes a determination to place the
27 officer's name on a Brady-Giglio list, the prosecuting agency shall send
28 a written notice by mail or email to the officer's current or last known
29 employment address. Upon receipt of the notice, and if the officer's
30 contact information is known, the officer's current or last known
31 employer shall provide the written notice to the officer. The written

1 notice shall include, at a minimum, all of the following:

2 (a) An explanation of the officer's right to request reconsideration
3 of the allegations and the placement of the officer's name on a Brady-
4 Giglio list;

5 (b) An explanation of the prosecuting agency's procedural
6 requirements for submitting a request for reconsideration, including the
7 method and time frame for submitting the request and any supporting and
8 corroborating documents and evidence from any pertinent sources; and

9 (c) A statement that, if the officer intends to make a request for
10 reconsideration, the officer shall submit a written request for
11 reconsideration to the prosecuting agency within ten business days after
12 receiving the notice.

13 (3) If an officer submits a request for reconsideration pursuant to
14 this section and the officer's request for reconsideration is approved by
15 the prosecuting agency on its merits, the prosecuting agency shall remove
16 the officer's name from the Brady-Giglio list.

17 Sec. 5. (1) On or before November 1, 2026, each prosecuting agency
18 that maintains a Brady-Giglio list shall:

19 (a) Identify each officer who (i) was placed on such list prior to
20 the operative date of this section and (ii) who is still employed as an
21 officer; and

22 (b) Send a written notice by mail or email to the officer's current
23 or last known employment address. Upon receipt of the notice, and if the
24 officer's contact information is known, the officer's current or last
25 known employer shall provide the written notice to the officer.

26 (2) The written notice shall include, at a minimum, all of the
27 following:

28 (a) An explanation of the officer's right to make a request to
29 reconsider any allegation and the placement of the officer's name on a
30 Brady-Giglio list;

31 (b) An explanation of the prosecuting agency's procedural

1 requirements for submitting a request for reconsideration, including the
2 method and time frame for submitting the request for reconsideration and
3 any supporting or corroborating document and evidence from any pertinent
4 source; and

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

9 (3) An officer described in subsection (1) of this section who
10 wishes to submit a request for reconsideration pursuant to this section
11 shall do so within ten business days after receiving such notice. If such
12 notice is not provided or is not received by the officer, the officer may
13 submit such a request for reconsideration on or before February 1, 2028.

14 **Sec. 6.** Sections 1 to 8 of this act shall not limit or restrict a
15 prosecuting agency's ability to remove an officer's name from a Brady-
16 Giglio list if, upon receipt of additional supporting or corroborating
17 information or a change in any factual circumstance at any time, the
18 prosecuting agency determines that the officer's name no longer requires
19 placement on a Brady-Giglio list.

20 **Sec. 7.** Sections 1 to 8 of this act shall not limit the duty of a
21 prosecuting agency to produce Brady-Giglio discovery evidence in all
22 cases otherwise required by law, including after the initial placement of
23 the officer's name on a Brady-Giglio list, while the decision or a
24 request for reconsideration is still under consideration.

25 **Sec. 8.** (1) An officer aggrieved by a prosecuting agency's decision
26 to deny the officer's request for reconsideration under section 4 or 5 of
27 this act may file a petition in the district court seeking review of such
28 decision.

29 (2) The court shall have jurisdiction over the review of the
30 prosecuting agency's decision. The court shall perform an in camera
31 review of the evidence and may hold a closed hearing upon the request of

1 the officer or prosecuting agency, or upon the court's own motion.

2 (3) Subject to the requirements of subsection (4) of this section,
3 the court may affirm, modify, or reverse a prosecuting agency's decision,
4 and issue any order or provide relief as justice may require, including
5 ordering the removal of the officer from a Brady-Giglio list.

6 (4) The court shall only modify or reverse a prosecuting agency's
7 decision to the extent that the court finds there is no reasonable basis
8 for concern that the information or actions of the officer that served as
9 the rationale for the placement of the officer on the Brady-Giglio list
10 will be material to the issues in any criminal case.

11 (5) A determination by a court that an officer should be removed
12 from a Brady-Giglio list shall not prevent a prosecuting agency from
13 making disclosures in individual cases that the prosecuting agency
14 believes to be necessary under Brady-Giglio case law.

15 (6) Evidence presented to the court under this section shall be
16 provided under seal and kept confidential unless otherwise provided by
17 law and ordered by the district court.

18 **Sec. 9.** (1) A public safety agency shall not publicly release an
19 officer's official photograph without the written permission of the
20 officer or his or her personal representative or without a request
21 pursuant to section 84-712.

22 (2) An officer's personal information, including, but not limited
23 to, the officer's home address, personal telephone number, personal email
24 address, date of birth, social security number, and operator's license
25 number shall be confidential and shall be redacted from any record prior
26 to the record's release to the public by the employing public safety
27 agency.

28 (3) Nothing in this section prohibits the release of an officer's
29 photograph or unredacted personal information to the officer's legal
30 counsel, union representative, or designated employee representative upon
31 the request of the officer or his or her personal representative or legal

1 counsel.

2 **Sec. 10.** An officer shall not be discharged, disciplined, or
3 threatened with discharge or discipline, or subject to revocation or
4 suspension of a certificate under sections 81-1401 to 81-1414.19, in
5 retaliation for exercising the rights of the officer enumerated in
6 sections 1 to 9 of this act.

7 **Sec. 11.** The rights enumerated in sections 1 to 9 of this act are
8 in addition to any other rights granted pursuant to a collective
9 bargaining agreement or other law.

10 **Sec. 12.** Section 28-610, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 28-610 (1) A person commits the offense of impersonating a peace
13 officer if he falsely pretends to be a peace officer and performs any act
14 in that pretended capacity.

15 (2) Impersonating a peace officer is a Class IV felony ~~I~~
16 ~~misdemeanor~~.

17 **Sec. 13.** Section 28-1205, Revised Statutes Supplement, 2025, is
18 amended to read:

19 28-1205 (1)(a) Any person who uses a firearm, a knife, brass or iron
20 knuckles, or any other deadly weapon to commit any felony which may be
21 prosecuted in a court of this state commits the offense of use of a
22 deadly weapon to commit a felony.

23 (b) Use of a deadly weapon, other than a firearm, to commit a felony
24 is a Class II felony.

25 (c) Use of a deadly weapon, which is a firearm, to commit a felony
26 is a Class IC felony.

27 (2)(a) Any person who possesses a firearm, a knife, brass or iron
28 knuckles, or a destructive device during the commission of any felony
29 which may be prosecuted in a court of this state commits the offense of
30 possession of a deadly weapon during the commission of a felony.

31 (b) Possession of a deadly weapon, other than a firearm, during the

1 commission of a felony is a Class III felony.

2 (c) Possession of a deadly weapon, which is a firearm, during the
3 commission of a felony is a Class II felony.

4 (3)(a) Any person who carries a firearm or a destructive device
5 during the commission of a dangerous misdemeanor commits the offense of
6 carrying a firearm or destructive device during the commission of a
7 dangerous misdemeanor.

8 (b) A violation of this subsection is a:

9 (i) Class I misdemeanor for a first or second offense; and

10 (ii) A Class IV felony for any third or subsequent offense.

11 (4) A violation of this section shall be treated as a separate and
12 distinct offense from the underlying crimes being committed, and a
13 sentence imposed under this section shall be consecutive to any other
14 sentence imposed.

15 (5) Possession of a deadly weapon may be proved through evidence
16 demonstrating either actual or constructive possession of a firearm, a
17 knife, brass or iron knuckles, or a destructive device during,
18 immediately prior to, or immediately after the commission of a felony.

19 (6) For purposes of this section:

20 (a) Dangerous misdemeanor means a misdemeanor violation of any of
21 the following offenses:

22 (i) Stalking under section 28-311.03;

23 (ii) Knowing violation of any protection order issued under the
24 Protection Orders Act;

25 (iii) Domestic assault under section 28-323;

26 (iv) Assault of an unborn child in the third degree under section
27 28-399;

28 (v) Theft by shoplifting under section 28-511.01;

29 (vi) Unauthorized use of a propelled vehicle under section 28-516;

30 (vii) Criminal mischief under section 28-519 if such violation
31 arises from an incident involving the commission of a misdemeanor crime

1 of domestic violence;

2 ~~(viii) Impersonating a police officer under section 28-610;~~

3 (viii) (ix) Resisting arrest under section 28-904;

4 (ix) (x) Operating a motor vehicle or vessel to avoid arrest under

5 section 28-905;

6 (x) (xi) Obstructing a peace officer under section 28-906; or

7 (xi) (xii) Any attempt under section 28-201 to commit an offense

8 described in subdivisions (6)(a)(i) through (x) (xi) of this section;

9 (b) Destructive device has the same meaning as in section 28-1213;

10 (c) Misdemeanor crime of domestic violence has the same meaning as

11 in section 28-1206; and

12 (d) Use of a deadly weapon includes the discharge, employment, or

13 visible display of any part of a firearm, a knife, brass or iron

14 knuckles, any other deadly weapon, or a destructive device during,

15 immediately prior to, or immediately after the commission of a felony or

16 communication to another indicating the presence of a firearm, a knife,

17 brass or iron knuckles, any other deadly weapon, or a destructive device

18 during, immediately prior to, or immediately after the commission of a

19 felony, regardless of whether such firearm, knife, brass or iron

20 knuckles, deadly weapon, or destructive device was discharged, actively

21 employed, or displayed.

22 **Sec. 14.** Sections 1 to 11 of this act become operative on October

23 1, 2026. The other sections of this act become operative on their

24 effective date.

25 **Sec. 15.** If any section in this act or any part of any section is

26 declared invalid or unconstitutional, the declaration shall not affect

27 the validity or constitutionality of the remaining portions.

28 **Sec. 16.** Original section 28-610, Reissue Revised Statutes of

29 Nebraska, and section 28-1205, Revised Statutes Supplement, 2025, are

30 repealed.