

Introduced by Senator De León
(Principal coauthor: Assembly Member Alejo)
(Coauthor: Senator Lieu)

February 15, 2013

An act to add Section 3305.5 to the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 313, as introduced, De León. Public Safety Officers Procedural Bill of Rights Act.

The Public Safety Officers Procedural Bill of Rights Act prohibits any punitive action, or denial of promotion on grounds other than merit, against a public safety officer, as defined, without providing the officer with specified administrative procedural protections, including, but not limited to, the officer's right to inspect his or her own personnel file and an opportunity for the officer to file an administrative appeal under certain conditions.

This bill would prohibit a public agency from taking punitive action, or denying promotion on grounds other than merit, against a public safety officer, because the officer's name was placed on a "Brady list," as defined. The bill would further prohibit the introduction of any evidence in an administrative appeal of a punitive action or a civil proceeding between the public safety officer and an office or public agency that the officer's name was placed on a Brady list, except as provided. The bill would specifically not prohibit a public agency from taking punitive or personnel action against a public safety officer based on the underlying acts or omissions for which that officer's name was placed on the Brady list.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3305.5 is added to the Government Code,
2 to read:

3 3305.5. (a) A punitive action, or denial of promotion on
4 grounds other than merit, shall not be undertaken by any public
5 agency against any public safety officer because that officer’s
6 name has been placed on a Brady list, or that the officer’s name
7 may otherwise be subject to disclosure pursuant to Brady v.
8 Maryland (1963) 373 U.S. 83.

9 (b) This section shall not prohibit a public agency from taking
10 punitive action, denying promotion on grounds other than merit,
11 or taking other personnel action against a public safety officer
12 based on the underlying acts or omissions for which that officer’s
13 name was placed on a Brady list, or may otherwise be subject to
14 disclosure pursuant to Brady v. Maryland (1963) 373 U.S. 83, if
15 the actions taken by the public agency otherwise conform to this
16 chapter and to the rules and procedures adopted by the local
17 agency.

18 (c) Evidence that a public safety officer’s name has been placed
19 on a Brady list, or may otherwise be subject to disclosure pursuant
20 to Brady v. Maryland (1963) 373 U.S. 83, shall not be introduced
21 for any purpose in any administrative appeal of a punitive action,
22 or in any civil proceeding between the officer and an office or
23 public agency, except as provided in subdivision (d).

24 (d) Evidence that a public safety officer’s name was placed on
25 a Brady list may only be introduced if, during the administrative
26 appeal of a punitive action against an officer, the underlying act
27 or omission for which that officer’s name was placed on a Brady
28 list is proven and the officer is found to be subject to some form
29 of punitive action. Evidence that a public safety officer’s name
30 was placed on a Brady list pursuant to this subdivision shall only
31 be used for the sole purpose of determining the type or level of
32 punitive action to be imposed.

33 (e) For purposes of this section, “Brady list” means any system,
34 index, list, or other record containing the names of peace officers
35 whose personnel files are likely to contain evidence of dishonesty

1 or bias, which is maintained by a prosecutorial agency or office
2 in accordance with the holding in *Brady v. Maryland* (1963) 373
3 U.S. 83.

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