

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN SENATE APRIL 24, 2013

SENATE BILL

No. 313

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 amended, 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 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 *solely* 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 except as provided in subdivision (d).

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

1 *will result in a punitive action, denial of a promotion on grounds*
2 *other than merit, or any other adverse personnel action, and*
3 *evidence exists that a public safety officer's name has been placed*
4 *on a Brady list, or may otherwise be subject to disclosure pursuant*
5 *to Brady v. Maryland (1963) 373 U.S. 83, then the evidence shall*
6 *be introduced for the sole purpose of determining the type or level*
7 *of punitive action to be imposed.*

8 (e) For purposes of this section, "Brady list" means any system,
9 index, list, or other record containing the names of peace officers
10 whose personnel files are likely to contain evidence of dishonesty
11 or bias, which is maintained by a prosecutorial agency or office
12 in accordance with the holding in Brady v. Maryland (1963) 373
13 U.S. 83.