

Introduced by Senator De León

February 18, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 638, as introduced, De León. Public Safety Officers Procedural Bill of Rights Act: Brady lists.

The Public Safety Officers Procedural Bill of Rights Act prohibits any punitive action against a public safety officer, or denial of promotion on grounds other than merit, without providing the public safety officer with an opportunity for administrative appeal.

This bill would prohibit a public agency from taking punitive action against a public safety officer, or denying promotion on grounds other than merit, because that officer is placed on a Brady list, as defined. The bill would provide, however, that the public agency may take 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, as specified. The bill would prohibit the introduction of any evidence that an officer's name was placed on a Brady list in any administrative appeal of a punitive action or civil proceeding between the office and the public agency.

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:

1 3305.5. (a) No punitive action, or denial of promotion on
2 grounds other than merit, shall be undertaken by any public agency
3 against any public safety officer because that officer's name has
4 been placed on a Brady list, or that the officer's name may
5 otherwise be subject to disclosure pursuant to Brady v. Maryland
6 (1963) 373 U.S. 83.

7 (b) Nothing in this section shall prohibit a public agency from
8 taking punitive action, denying promotion on grounds other than
9 merit, or taking other personnel action against a public safety
10 officer based on the underlying acts or omissions for which that
11 officer's name was placed on a Brady list, or may otherwise be
12 subject to disclosure pursuant to Brady v. Maryland (1963) 373
13 U.S. 83, if the actions taken by the public agency otherwise
14 conform to this chapter and to the rules and procedures adopted
15 by the local agency.

16 (c) Evidence that a public safety officer's name has been placed
17 on a Brady list, or may otherwise be subject to disclosure pursuant
18 to Brady v. Maryland (1963) 373 U.S. 83, shall not be introduced
19 for any purpose in any administrative appeal of a punitive action,
20 or in any civil proceeding between the office or the public agency.

21 (d) For purposes of this section:

22 (1) "Brady list" means any system, index, list, or other record
23 containing the names of peace officers whose personnel files are
24 likely to contain evidence of dishonesty or bias, which is
25 maintained by a prosecutorial agency or office in accordance with
26 the holding in Brady v. Maryland (1963) 373 U.S. 83.

27 (2) "Personnel action" includes, but is not limited to, transfer,
28 change of status, assignment, evaluation, denial of opportunity to
29 work overtime or special assignments, and denial of a merit
30 increase.