

BILL ANALYSIS

Senate Research Center
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S.B. 1573
By: Birdwell
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The concept of a Brady list originates from the 1963 case *Brady v. Maryland*, in which the U.S. Supreme Court ruled that due process, under the Constitution, requires the prosecution to disclose evidence that is favorable to the defendant and relevant to their guilt or punishment. This includes evidence that may be used to impeach the credibility of the prosecution's witnesses, including law enforcement officers.

Currently, Brady lists are maintained, either formally or informally, solely under the jurisdiction of prosecutors, with little to no external oversight or due process. Officers placed on a Brady list are typically not given an opportunity to formally appeal their inclusion, making it nearly impossible for them to be removed. Additionally, being placed on the list can limit an officer's job assignments, career advancement, opportunities for promotion, and in some cases, may lead to job termination.

S.B. 1573 will give peace officers who are the subject of a report of misconduct and who are deemed not credible to testify in a criminal proceeding the opportunity to dispute the allegation and determination through a district court.

As proposed, S.B. 1573 amends current law relating to a limitation on the use of certain unsubstantiated information relating to peace officer misconduct.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter B, Chapter 2A, Code of Criminal Procedure, to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF LAW ENFORCEMENT

SECTION 2. Amends Chapter 2A, Code of Criminal Procedure, by adding Subchapter C-1, as follows:

SUBCHAPTER C-1. POWERS AND DUTIES OF LAW ENFORCEMENT AND ATTORNEYS REPRESENTING THE STATE

Art. 2A.131. LIMITATION ON USE OF CERTAIN UNSUBSTANTIATED INFORMATION RELATING TO PEACE OFFICER MISCONDUCT. (a) Defines "attorney representing the state" and "law enforcement agency."

(b) Prohibits a law enforcement agency from disclosing to an attorney representing the state information relating to misconduct by a peace officer who is or will serve as a witness in a criminal proceeding unless the allegation of misconduct has been finally adjudicated as sustained.

- (c) Prohibits the attorney representing the state, when evaluating the credibility of a peace officer who is serving or will serve as a witness in a criminal proceeding, from considering an allegation of misconduct by the peace officer that has not been finally adjudicated as sustained.
- (d) Provides that, for purposes of this article, an allegation of misconduct by a peace officer is not considered finally adjudicated as sustained if the allegation is currently under appeal through an administrative process or judicial proceeding and the finder of fact has not yet issued a finding.
- (e) Authorizes a peace officer who is the subject of a report of misconduct submitted to an attorney representing the state by a law enforcement agency or who has been notified of a determination by the attorney representing the state that the officer is not considered credible to testify in a criminal proceeding as a result of an allegation of misconduct to dispute that report or determination by filing a petition in district court in the county in which the law enforcement agency is located. Requires the attorney representing the state to provide specific details of the allegation to the peace officer for purposes of a dispute made under this subsection. Requires the district court, on receiving a petition under this subsection, to conduct a hearing to determine the validity of the disputed allegation of misconduct in accordance with Subsection (f).
- (f) Requires the district court, in a hearing under Subsection (e), to determine by a preponderance of the evidence whether the alleged misconduct occurred regardless of whether the applicable officer was terminated or whether that officer resigned, retired, or separated in lieu of termination. Requires the court, if the allegation of misconduct is not supported by a preponderance of the evidence, to provide notice of the finding to any attorney representing the state the petitioner identifies as having received a report or as having made a determination as described by Subsection (e). Prohibits the attorney representing the state from considering the allegation of misconduct when evaluating the peace officer's credibility as a witness.

SECTION 3. Effective date: September 1, 2025.