
**Labor & Workplace Standards
Committee**

HB 2532

Brief Description: Concerning fairness in disciplinary actions of peace officers who appear on a prosecuting attorney's potential impeachment list.

Sponsors: Representatives Sells, Hayes, Holy, Sullivan, Irwin, Muri, Stanford, Ormsby and Johnson.

Brief Summary of Bill

- Prohibits a law enforcement agency from taking disciplinary or other adverse personnel action against a peace officer solely because the officer's name appears on the prosecutor's recurring witness list.

Hearing Date: 1/15/18

Staff: Trudes Tango 786-7384

Background:

Prosecutors have an affirmative duty to disclose exculpatory evidence to the defense. This duty is based on constitutional due process requirements, as explained in a United State Supreme Court case, *Brady v. Maryland (Brady)*, and since modified by subsequent cases. In addition to *Brady*, the duty to disclose is also established in court rules and rules of professional conduct for prosecutors.

Prosecutors must disclose information that could be used to impeach witnesses. Potential impeachment evidence includes information that a reasonable person could view as impairing the witness' credibility or competence. It can include, for example, a witness' prior conviction, a forensic scientist's performance errors, or a law enforcement officer's misconduct related to truthfulness, bias, or other behavior that could be exculpatory to the criminal defendant.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

A law enforcement agency may not take disciplinary action or any other adverse personnel action against a peace officer solely because:

- the officer's name has been placed on a list maintained by a prosecuting attorney's office of recurring witnesses for whom there is known potential impeachment information; or
- the officer's name may otherwise be subject to disclosure pursuant to *Brady*.

A law enforcement agency is not prohibited from taking disciplinary action or any other adverse personnel action against a peace officer based on the underlying acts or omission for which that officer's name was placed on the list or may be subject to disclosure, so long as the law enforcement agency's actions conform to the rules and procedures established through collective bargaining.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.