

By: Representative Burch

To: Judiciary B

HOUSE BILL NO. 869

1 AN ACT TO REQUIRE A PROSECUTOR TO GIVE NOTICE TO A LAW  
 2 ENFORCEMENT OFFICER BEFORE SENDING A GIGLIO LETTER OR PLACING THE  
 3 OFFICER'S NAME ON A GIGLIO LIST; TO DEFINE THE TERMS "GIGLIO  
 4 LETTER" AND "GIGLIO LIST"; TO REQUIRE THE PROSECUTOR TO GIVE THE  
 5 OFFICER AN OPPORTUNITY TO REVIEW MATERIALS AND MEET WITH THE  
 6 PROSECUTOR BEFORE THE GIGLIO LETTER IS SENT; TO AUTHORIZE AN  
 7 OFFICER TO APPEAL A PROSECUTOR'S DECISION TO SEND A GIGLIO LETTER  
 8 TO THE CHANCERY COURT IN WHICH THE OFFICER RESIDES FOR A DE NOVO  
 9 REVIEW; AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** (1) For purposes of this section, the following  
 12 words and phrases have the meanings ascribed in this subsection  
 13 unless the context clearly requires otherwise:

14 (a) "Giglio letter" or "Giglio notification" means  
 15 communication, whether written or oral, made by a prosecuting  
 16 attorney to the employer of a law enforcement officer which gives  
 17 notice to the employer that the prosecuting attorney has  
 18 determined that the officer may not be called to testify at trial  
 19 due to the officer's alleged untruthfulness, bias, lack of candor,  
 20 lack of integrity, illegal conduct, moral turpitude or other type  
 21 of issue that places the officer's credibility in question.



22 (b) "Giglio list," "Brady-Giglio list," or "Do Not Call  
23 list" means a list compiled by a prosecuting attorney which  
24 contains the names and details of law enforcement officers who,  
25 due to alleged untruthfulness, bias, lack of candor, lack of  
26 integrity, illegal conduct, moral turpitude or other type of issue  
27 that places an officer's credibility in question, the prosecuting  
28 attorney has determined may not be called to testify at trial.

29 (c) "Prosecuting attorney" means a licensed attorney  
30 whose duties include the prosecution of criminal offenses under  
31 the laws of this state or a jurisdiction represented by that  
32 attorney in the State of Mississippi. The term "prosecuting  
33 attorney" includes employees of the state and local governments,  
34 whether full-time or part-time, and attorneys in private practice  
35 with whom a governmental agency has contracted for prosecutorial  
36 services. "Prosecuting attorney" includes, but is not limited to,  
37 the following:

38 (i) The Attorney General and attorneys employed by  
39 the Attorney General;

40 (ii) District attorneys and assistant district  
41 attorneys;

42 (iii) County attorneys;

43 (iv) Municipal attorneys;

44 (v) Attorneys in private practice with whom a  
45 governmental entity contracts for prosecutorial services;

46 (vi) A special prosecutor; and



47 (vii) Any other attorney serving as a prosecutor  
48 before a tribunal in the State of Mississippi.

49 (2) Before a prosecuting attorney sends a Giglio letter or  
50 adds the name of a law enforcement officer to a Giglio list, the  
51 prosecuting attorney must send a written preliminary notice by  
52 U.S. mail or email to the officer's current or last known address.  
53 The notice must include, at a minimum, all of the following:

54 (a) Notification that a Giglio letter concerning the  
55 officer may be sent to the officer's employer or that the  
56 officer's name may be placed on a Giglio list maintained by the  
57 prosecuting attorney;

58 (b) A description of the incident or issue that is the  
59 basis of the prosecuting attorney's decision to send the Giglio  
60 letter or place the officer's name on a Giglio list;

61 (c) The officer's right to request documents, records  
62 and any other evidence in the prosecuting attorney's possession  
63 which is relevant to the decision of whether a Giglio letter will  
64 be sent or the officer's name will be placed on a Giglio list;

65 (d) The officer's right to give input to the  
66 prosecuting attorney before the final determination of whether a  
67 Giglio letter will be sent or the officer's name will be placed on  
68 a Giglio list is made;

69 (e) The date, time and location that the officer may be  
70 heard and present material in the officer's defense; and



71 (f) The officer's right to be accompanied by counsel at  
72 any meeting conducted pursuant to this subsection.

73 (3) If, after providing a law enforcement officer an  
74 opportunity to be heard, a prosecuting attorney determines that a  
75 Giglio letter or placing the officer's name on a Giglio list is  
76 warranted, the prosecuting attorney must notify the officer in  
77 writing, no later than thirty (30) days after the date of the  
78 meeting held pursuant to subsection (2), of the decision. The  
79 notification must advise the officer of the right to appeal the  
80 prosecuting attorney's determination in the chancery court of the  
81 jurisdiction in which the officer resides. The appeal must be  
82 taken no later than thirty (30) days after the date on which the  
83 officer receives the notification required under this subsection.  
84 The chancery court shall conduct a de novo review in the appeal.

85 **SECTION 2.** This act shall take effect and be in force from  
86 and after July 1, 2024.

