

By: Representative Burch

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
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 CIRCUIT 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 circuit 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 circuit 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.

