

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 2/8, 2/10

WHAT THE MEASURE DOES: Prohibits official action relating to employment of law enforcement officer based solely on officer's placement on impeachment list or unproven allegation that might place officer on such list. Declares emergency; effective on passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed (-5) amendments replace measure. Allows law enforcement officer or law enforcement unit, on behalf of officer, to file petition with circuit court on behalf of police officer to require withholding of officer personal information from disclosure in cases where, by clear and convincing evidence, officer can demonstrate credible present threat of danger to life of police officer or immediate family of officer. Specifies information to be withheld. Requires in camera review of petition. Requires court to enter order granting or denying petition within five business days of filing petition. Requires withholding be related to specific event. Allows withholding of information for period of 90 days from date on which court enters order. Allows additional extensions of order. Specifies procedure for obtaining officer name in civil suit involving officer. Maintains emergency clause.

BACKGROUND: Under *Brady v Maryland*, 373 US 83 (1963), prosecutors are required to disclose exculpatory information to defense attorney prior to trial. This includes material known to police officers. Additionally, prosecutors are required to disclose when an officer has been found to have misconduct involving dishonesty. This can be through criminal convictions or misconduct while on the job. Officers with certain convictions for crime relating to honesty or with misconduct relating to job performance may be unable to testify at trial because of their ability to be impeached. These disqualified officers may be placed on a "Brady list" or impeachment list.

House Bill 4087 prohibits employment disciplinary action against an officer solely for the reason the officer is on an impeachment list. The measure does not prohibit disciplinary action based on the underlying conduct.