

HF962 - 1E - Brady-Giglio Data Protections Established

Chief Author: **Paul Novotny**
 Committee: **Public Safety Finance And Policy**
 Date Completed: **4/13/2026 10:41:01 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029
General Fund	-	-	3,198	3,023	3,023	
Total	-	-	3,198	3,023	3,023	
Biennial Total			3,198		6,046	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2025	FY2026	FY2027	FY2028	FY2029
General Fund	-	-	15	15	15
Total	-	-	15	15	15

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2025	FY2026	FY2027	FY2028	FY2029
General Fund	-	-	3,198	3,023	3,023	
Total	-	-	3,198	3,023	3,023	
	Biennial Total		3,198		6,046	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	3,198	3,023	3,023	
Total	-	-	3,198	3,023	3,023	
	Biennial Total		3,198		6,046	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-		-	-

Bill Description

HF962-1E (“the bill”) at section 1 adds a new section 634.046 requiring that all prosecuting authorities implement a written policy to guide the process of seeking, reviewing, and protecting personnel data determined to be Brady-Giglio material in a criminal action; prohibiting creation of a blanket do not use or call list for public employees; and providing that any personnel data disclosed under this section or pursuant to court order shall maintain its original data classification.

The bill requires the district court to make appropriate safeguards to protect personnel data when disclosure is necessary to pro se parties and authorizes the district court to appoint standby legal counsel to handle any Brady-Giglio material that must be disclosed in a criminal action to a pro se party. The bill also authorizes the district court to issue protective orders restricting disclosure and use of the data, requires recipients of Brady-Giglio material originating from a public employee’s personnel file to protect the data from further disclosure outside of the criminal action, and makes violations of these requirements or a court order a misdemeanor.

The bill requires that if a court finds that a public employee who testifies or submits testimonial evidence has been untruthful, the district court shall provide notice to the public employer, employee, and prosecuting authority, as well as the parties in the case.

Assumptions

It is assumed that any personnel data that becomes part of the court record in a criminal action will be governed by the Rules of Public Access.

It is assumed that a court finding that a public employee has been untruthful would be relatively rare. It is assumed that a court can only find that a public employee has been untruthful in limited situations, including where the public employee is convicted of the crime of perjury, and in situations where the judge is the factfinder, including omnibus hearings and bench trials. It is also assumed that most often when a judge is the factfinder a judge does not make a specific finding of untruthfulness when determining issues of fact and instead makes a credibility determination, which would not be covered by these provisions in the bill.

It is assumed that in those rare situations when the court does make a finding of untruthfulness, the requirement that the district court notify certain individuals of the finding will be met by the issuance of a written order, the service of that order on the parties, and the court making that order available in the public, internet accessible file in the criminal case. It is assumed that the order will be distributed to additional individuals or entities if specifically directed by the judge. It is assumed that any additional work required by these provisions of the bill will be absorbed.

It is assumed that the bill could result in additional criminal case filings as a misdemeanor offense is added. It is anticipated that any such increase in case filings would not have a significant impact on the judicial branch and will be absorbed.

It is assumed that although the bill may lead to more clarification and standardization of the requirements for disclosing personnel data determined to be Brady-Giglio material, the bill will require additional hearing time, additional in camera document review time, and the issuance of additional orders in criminal actions in a high volume of criminal cases because the bill requires every prosecuting authority to have a policy and follow these procedures for all levels of offense. Because these types of Brady-Giglio issues could arise in any criminal case but significant issues will not arise in every criminal case, for purposes of this fiscal note it is assumed that issues will likely arise in 10-15% of all major criminal cases, and 10-15% of all minor criminal cases that reach the pretrial stage, or an average of 12.5% of these cases. It is assumed this may be an underestimation of the actual impact.

Based on information from a district court that routinely handles these types of issues, it is assumed that additional hearing time will be relatively rare with most cases having no hearing and some cases having lengthy hearings, especially in any case where the public employee objects to disclosure of the information. It is assumed that the average in camera document review and order drafting and signing time will be approximately 10 to 30 minutes per case when these issues are raised, with some cases requiring only a few minutes of document review and signing time, and some cases involving 1000s of pages and potentially hours of document review. It is also assumed that these additional proceedings will result in additional delays in criminal case processing, contributing to the overall impact on judicial branch resources. For purposes of this fiscal note, it is assumed that in all cases where Brady-Giglio issues are likely to arise, an average of 20 additional minutes of judge time will be needed per case. This may also be an underestimation of the actual impact.

It is assumed the judicial branch will be responsible for paying most if not all of the costs of any standby counsel appointed under the provisions of the bill. See Minn. Stat. § 611.17(b)(4) ("If the court appoints advisory or standby counsel, the cost of counsel shall be paid for by the Office of the State Court Administrator or, if the prosecutor requests the appointment, by the governmental unit conducting the prosecution."). For purposes of this fiscal note, it is assumed that standby counsel will be appointed in half of all cases where significant Brady-Giglio issues are raised and the defendant is pro se, and that standby counsel will need to spend between 1 to 3 (average of 2) hours reviewing documents and meeting with a defendant explaining what Brady-Giglio information is, the appropriate uses of the information to be disclosed, and the prohibitions and consequences of disclosure beyond what the law and any court order authorize.

It is assumed the law would take effect on August 1, 2026, and that the additional judicial branch resources will be needed starting in FY27.

Expenditure and/or Revenue Formula

Based on available judicial branch data over the past 5 years, the average number of major criminal cases filed annually is 62,709, and the average number of minor criminal cases filed annually that reach the pretrial stage is 96,553 (of 685,435 total annual average minor criminal case filings), for a total of 159,262 cases that could have Brady-Giglio issues arise.

Based on the assumption that significant issues will likely arise in at least 12.5% of these cases, that would result in these issues arising in 19,908 cases. If an additional 20 minutes of judge time is needed in 19,908 cases, that would require an additional 398,160 minutes or 5 judge FTE based on a judge year of 78,000 minutes.

The annual cost of a district court judgeship for FY27 and beyond is \$507,000 annually, which includes salary, retirement, and other benefits for the judge, one law clerk, and one court reporter. There is an additional cost for chambers set-up of \$33,000 for a total of \$540,000 per chambers in the first year. The annual costs for 5 additional judge FTE would be: \$2,700,000 in FY27, and \$2,535,000 in FY28 and FY29.

Based on available judicial branch data, defendants proceed pro se in approximately 20% of major and minor criminal cases. If the defendant is pro se in 20% of all criminal cases in which Brady-Giglio issues, and if standby counsel is appointed in half of those cases, standby counsel will likely be appointed in 1,991 cases ($19,908 \times .20 = 3,982/2 = 1,991$). Based on the average 2 hours per appointment and an average payment of \$125 per hour for standby counsel appointments, the estimated fiscal impact would be: $1,991 \text{ cases} \times 2 \text{ hours} = 3,982 \text{ hours} \times \$125 = \$497,750$ in annual standby counsel costs to the judicial branch.

The annual total costs to the judicial branch would be: \$3,197,750 in FY27, and \$3,032,750 in FY28 and FY29.

Long-Term Fiscal Considerations

None.

Local Fiscal Impact

References/Sources

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