

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 786

Short Title: LEO Provide Info to DA for Discovery. (Public)

Sponsors: Representatives Earle, Glazier, Harrison, Parmon (Primary Sponsors);
Alexander, Brown, Cunningham, Hall, Insko, Lucas, Luebke, Wainwright,
and Weiss.

Referred to: Judiciary II.

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO ENSURE DISTRICT ATTORNEYS RECEIVE ALL NECESSARY
INFORMATION FROM LAW ENFORCEMENT AGENCIES AS
RECOMMENDED BY THE HOUSE INTERIM STUDY COMMITTEE ON
CAPITAL PUNISHMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-903 reads as rewritten:

"§ 15A-903. Disclosure of evidence by the State – Information subject to disclosure.

(a) Upon motion of the defendant, the court must order the State to:

(1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded form. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein.

(2) Give notice to the defendant of any expert witnesses that the State reasonably expects to call as a witness at trial. Each such witness shall prepare, and the State shall furnish to the defendant, a report of the results of any examinations or tests conducted by the expert. The State shall also furnish to the defendant the expert's curriculum vitae, the

1 expert's opinion, and the underlying basis for that opinion. The State
2 shall give the notice and furnish the materials required by this
3 subsection within a reasonable time prior to trial, as specified by the
4 court.

- 5 (3) Give the defendant, at the beginning of jury selection, a written list of
6 the names of all other witnesses whom the State reasonably expects to
7 call during the trial. Names of witnesses shall not be subject to
8 disclosure if the State certifies in writing and under seal to the court
9 that to do so may subject the witnesses or others to physical or
10 substantial economic harm or coercion, or that there is other
11 particularized, compelling need not to disclose. If there are witnesses
12 that the State did not reasonably expect to call at the time of the
13 provision of the witness list, and as a result are not listed, the court
14 upon a good faith showing shall allow the witnesses to be called.
15 Additionally, in the interest of justice, the court may in its discretion
16 permit any undisclosed witness to testify.

17 (b) If the State voluntarily provides disclosure under G.S. 15A-902(a), the
18 disclosure shall be to the same extent as required by subsection (a) of this section.

19 (c) A law enforcement agency shall make available to the State the complete files
20 related to the investigation of the crimes committed or the prosecution of the defendant
21 for compliance with this section and any disclosure under G.S. 15A-902(a)."

22 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
23 cases where the trial date set pursuant to G.S. 7A-49.4 is on or after that date.