

By: Huffman, Perry

S.B. No. 1124

A BILL TO BE ENTITLED

AN ACT

relating to discovery in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 39.14, Code of Criminal Procedure, is amended by amending Subsections (a), (c), (d), (h-1), (i), and (n) and adding Subsections (a-1), (a-2), (o), (p), and (q) to read as follows:

(a) In this article, "the state" means:

(1) the attorney representing the state in the criminal action; and

(2) any law enforcement agency that filed or investigated any matter involved in the action.

(a-1) Subject to the restrictions provided by Chapter 58, Family Code, Section 264.408, Family Code, and Articles [Article] 39.15 and 39.151 of this code, as soon as practicable after receiving a timely and specific written request from the defendant, the attorney representing the state shall produce and permit the inspection and the electronic duplication, copying, and photographing, by or on behalf of the defendant, of any offense reports, any designated documents, papers, written or recorded statements of the defendant or a witness, including witness statements of law enforcement officers but not including the work product of counsel for the state in the case and their investigators and their notes or report, or any designated books, accounts,

1 letters, photographs, or objects or other tangible things not  
 2 otherwise privileged that constitute or contain evidence relevant  
 3 to any fact of consequence in determining [~~material to any matter~~  
 4 ~~involved in~~] the action and that are in the possession, custody, or  
 5 control of the state or any person under contract with the state for  
 6 purposes of the action. The attorney representing the state may  
 7 provide to the defendant electronic duplicates of any documents or  
 8 other information described by this article. The rights granted to  
 9 the defendant under this article do not extend to written  
 10 communications between the attorney representing the state and an  
 11 agent, representative, or employee of the state. This article does  
 12 not authorize the removal of the documents, items, or information  
 13 from the possession of the state, and any inspection shall be in the  
 14 presence of a representative of the state.

15 (a-2) On a motion by the attorney representing the state,  
 16 and after a hearing at which applicable counsel for the state and  
 17 the defendant are present, the court may limit a defendant's  
 18 request for discovery under this article if the court finds that:

19 (1) the request is unduly broad or burdensome or  
 20 implicates the security and privacy interests of any victim or  
 21 witness; and

22 (2) the document, item, or information was not shown  
 23 to be reasonably necessary to the defense.

24 (c) If only a portion of the applicable document, item, or  
 25 information is subject to discovery under this article, the  
 26 attorney representing the state is not required to produce or  
 27 permit the inspection of the remaining portion that is not subject

to discovery and may withhold or redact that portion. The attorney representing the state shall inform the defendant that a portion of the document, item, or information has been withheld or redacted. On request of the defendant, the court shall conduct a hearing to determine whether withholding or redaction is justified under this article or other law.

(d) In the case of a pro se defendant, if the court orders the attorney representing the state to produce and permit the inspection of a document, item, or information under this subsection, the attorney representing the state shall permit the pro se defendant to inspect and review the document, item, or information but is not required to allow electronic duplication as described by Subsection (a-1) [~~(a)~~].

(h-1) In this subsection, "correctional facility" has the meaning assigned by Section 1.07, Penal Code. Notwithstanding any other provision of this article, if the attorney representing the state intends to use at a defendant's trial testimony of a person to whom the defendant made a statement against the defendant's interest while the person was imprisoned or confined in the same correctional facility as the defendant, the attorney representing the state shall disclose to the defendant any information in the possession, custody, or control of the state that is relevant to the person's credibility, including:

(1) the person's complete criminal history, including any charges that were dismissed or reduced as part of a plea bargain;

(2) any grant, promise, or offer of immunity from

1 prosecution, reduction of sentence, or other leniency or special  
2 treatment, given by the state in exchange for the person's  
3 testimony; and

4 (3) information concerning other criminal cases in  
5 which the person has testified, or offered to testify, against a  
6 defendant with whom the person was imprisoned or confined,  
7 including any grant, promise, or offer as described by Subdivision  
8 (2) given by the state in exchange for the testimony.

9 (i) The attorney representing the state shall  
10 electronically record or otherwise document any document, item, or  
11 other information provided to the defendant under this article.

12 (n) This article does not prohibit the parties from agreeing  
13 to discovery and documentation requirements equal to or greater  
14 than those required under this article. Except as provided by  
15 Subsection (b), a court may not order discovery and documentation  
16 requirements greater than or require production earlier than  
17 required under this article.

18 (o) A party may request a discovery conference to be held  
19 not later than the 20th day before the date that jury selection in  
20 the trial is scheduled to begin to resolve any issue with respect to  
21 discovery, disclosure, or notice. If at any time a party becomes  
22 aware that the party has not received required or requested  
23 discovery, disclosure, or notice, and fails to promptly request  
24 resolution of the issue, the court shall consider that failure in  
25 determining an appropriate remedy, if any.

26 (p) Subject to Subsection (q), if the court finds that a  
27 party has failed to comply with Subsection (a-1), (b), or (h), the

1 court:

2 (1) may order and compel the noncomplying party to  
3 provide the required discovery or disclosure; and

4 (2) may grant a continuance, issue a protective order,  
5 or provide another proportionate remedy that the court determines  
6 is necessary under the circumstances.

7 (q) A court acting under Subsection (p) may suppress the  
8 introduction of otherwise admissible evidence that was not  
9 disclosed in compliance with Subsection (a-1) or (b) or testimony  
10 affected by the nondisclosure only if the court finds that:

11 (1) the noncomplying party knowingly withheld the  
12 required discovery or disclosure; or

13 (2) the violation caused actual prejudice to a party  
14 and other remedial alternatives have been exhausted or would not  
15 suffice to cure the prejudice.

16 SECTION 2. The changes in law made by this Act apply only to  
17 a criminal proceeding that commences on or after the effective date  
18 of this Act. A criminal proceeding that commences before the  
19 effective date of this Act is governed by the law in effect on the  
20 date the proceeding commenced, and the former law is continued in  
21 effect for that purpose.

22 SECTION 3. This Act takes effect September 1, 2025.