

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

SENATE BILL 579

4
5 By: Senator A. Clark
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For An Act To Be Entitled

8 AN ACT TO REQUIRE THE DISCLOSURE OF ALL EVIDENCE IN
9 THE POSSESSION OF THE STATE TO A CRIMINAL DEFENDANT,
10 WHETHER THE EVIDENCE IS INCULPATORY, EXCULPATORY, OR
11 NEITHER INCULPATORY NOR EXCULPATORY; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO REQUIRE THE DISCLOSURE OF ALL EVIDENCE
16 IN THE POSSESSION OF THE STATE TO A
17 CRIMINAL DEFENDANT, WHETHER THE EVIDENCE
18 IS INCULPATORY, EXCULPATORY, OR NEITHER
19 INCULPATORY NOR EXCULPATORY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code Title 16, Chapter 85, Subchapter 1, is
26 amended to add an additional section to read as follows:

27 16-85-103. Requirement to disclose evidence.

28 (a) To the extent permitted by Arkansas Constitution, Amendment 80,
29 the state shall disclose to a criminal defendant all evidence collected
30 before, during, and after an investigation into the defendant's alleged
31 criminal acts that it has in its possession, custody, or control, whether
32 exculpatory, inculpatory, or neither specifically exculpatory or inculpatory.

33 (b)(1) The state shall disclose the evidence described under
34 subsection (a) of this section without delay after the defendant has been
35 arraigned and before the entry of a plea of guilty or nolo contendere.

36 (2) If evidence is discovered or uncovered after the date of the



1 initial disclosure under subdivision (b)(1) of this section, the evidence
2 shall be disclosed at the earliest possible instance, without regard to
3 whether the defendant has entered a plea of guilty or nolo contendere.

4 (c)(1) Upon a motion by the state, the court may issue a protective
5 order against the immediate disclosure to a defendant of evidence under this
6 section if:

7 (A) The evidence is favorable to the defendant solely
8 because the evidence would provide a basis to impeach the credibility of a
9 potential witness; and

10 (B) The state establishes a reasonable basis to believe
11 that:

12 (i) The identity of a potential witness is not
13 already known to the defendant; and

14 (ii) Disclosure of the evidence to a defendant would
15 present a threat to the safety of the potential witness or of any other
16 person.

17 (2) A motion made under this subsection may be made under seal.

18 (d) A court may take any action it determines is necessary if the
19 state fails to comply with this section, including without limitation:

- 20 (1) Using the contempt power of the court;
- 21 (2) Excluding certain evidence;
- 22 (3) Postponement of proceedings; and
- 23 (4) Dismissal of the case.

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