

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Criminal Procedure of 1963 is amended by changing Section 115-21 as follows:

(725 ILCS 5/115-21)

Sec. 115-21. Informant testimony.

(a) For the purposes of this Section, "informant" means someone who is purporting to testify about admissions made to him or her by the accused while detained or incarcerated in a penal institution contemporaneously.

(b) This Section applies to any criminal proceeding brought under Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 11-1.30, 11-1.40, or 20-1.1 of the Criminal Code of 1961 or the Criminal Code of 2012, capital case in which the prosecution attempts to introduce evidence of incriminating statements made by the accused to or overheard by an informant.

(c) Except as provided in subsection (d-5), in ~~in~~ any case under this Section, the prosecution shall disclose at least 30 days prior to a relevant evidentiary hearing or trial ~~timely disclose in discovery:~~

- (1) the complete criminal history of the informant;
- (2) any deal, promise, inducement, or benefit that the

offering party has made or will make in the future to the informant;

(3) the statements made by the accused;

(4) the time and place of the statements, the time and place of their disclosure to law enforcement officials, and the names of all persons who were present when the statements were made;

(5) whether at any time the informant recanted that testimony or statement and, if so, the time and place of the recantation, the nature of the recantation, and the names of the persons who were present at the recantation;

(6) other cases in which the informant testified, provided that the existence of such testimony can be ascertained through reasonable inquiry and whether the informant received any promise, inducement, or benefit in exchange for or subsequent to that testimony or statement; and

(7) any other information relevant to the informant's credibility.

(d) Except as provided in subsection (d-5), in ~~in~~ any case under this Section, the prosecution shall ~~must~~ timely disclose at least 30 days prior to any relevant evidentiary hearing or trial its intent to introduce the testimony of an informant. The court shall conduct a hearing to determine whether the testimony of the informant is reliable, unless the defendant waives such a hearing. If the prosecution fails to show by a

preponderance of the evidence that the informant's testimony is reliable, the court shall not allow the testimony to be heard at trial. At this hearing, the court shall consider the factors enumerated in subsection (c) as well as any other factors relating to reliability.

(d-5) The court may permit the prosecution to disclose its intent to introduce the testimony of an informant with less notice than the 30-day notice required under subsections (c) and (d) of this Section if the court finds that the informant was not known prior to the 30-day notice period and could not have been discovered or obtained by the exercise of due diligence by the prosecution prior to the 30-day notice period. Upon good cause shown, the court may set a reasonable notice period under the circumstances or may continue the trial on its own motion to allow for a reasonable notice period, which motion shall toll the speedy trial period under Section 103-5 of this Code for the period of the continuance.

(e) If a lawful recording of an incriminating statement is made of an accused to an informant or made of a statement of an informant to law enforcement or the prosecution, including any deal, promise, inducement, or other benefit offered to the informant, the accused may request a reliability hearing under subsection (d) of this Section and the prosecution shall be subject to the disclosure requirements of subsection (c) of this Section. A hearing required under subsection (d) does not apply to statements covered under subsection (b) that are

~~lawfully recorded.~~

(f) (Blank). ~~This Section applies to all death penalty prosecutions initiated on or after the effective date of this amendatory Act of the 93rd General Assembly.~~

(g) This Section applies to all criminal prosecutions under subsection (b) of this Section on or after the effective date of this amendatory Act of the 100th General Assembly.

(Source: P.A. 93-605, eff. 11-19-03.)