

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

1

HOUSE BILL 1799

Short Title: Open Criminal Discovery/Funds.

(Public)

Sponsors: Representative Goforth.

Referred to: Rules, Calendar, and Operations of the House.

May 31, 2004

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FAIR, EQUAL AND OPEN FILE CRIMINAL DISCOVERY
3 AND TO APPROPRIATE FUNDS TO IMPLEMENT THIS ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 15A-905 is amended by adding a new subsection to read:

6 "(c) If the court grants any relief sought by the defendant under G.S. 15A-903(d),
7 the court must, upon motion of the State, order the defendant to deliver to the State all
8 materials in subsections (a) and (b) of this section herein prior to the last administrative
9 setting before trial."

10 **SECTION 2.** Article 48 of Chapter 15A is amended by adding the following
11 new sections to read:

12 **"§ 15A-911. Criminal discovery for all felonies heard or tried in superior court.**

13 Article 48 of this Chapter applies to all felonies within the original jurisdiction of
14 superior court. Nothing contained herein requires the State or defense to make copies of
15 any information inspected by either side, except by content of both parties. Either side
16 can redact the addresses of witnesses prior to inspection.

17 **"§ 15A-912. Furnishing of witness information; certain information regarding law**
18 **enforcement officers not required.**

19 (a) The prosecuting attorney, no later than the last administrative setting prior to
20 trial, and the defendant's attorney, after compliance by the prosecuting attorney, or as
21 otherwise ordered by the court, shall furnish to the opposing counsel as an officer of the
22 court, in confidence, the names, current locations, dates of birth, and telephone numbers
23 of that party's witnesses, unless for good cause the judge allows an exception to this
24 requirement, in which event the counsel shall be afforded an opportunity to interview
25 such witnesses prior to the witnesses being called to testify.

26 (b) Nothing in this section shall be construed to require the prosecuting attorney
27 to furnish the home address, date of birth, or home telephone number of a witness who
28 is a law enforcement officer. Instead, in such cases, the prosecuting attorney shall

1 furnish to the defense attorney the law enforcement officer's current work location and
2 work phone number.

3 **"§ 15A-913. Production of statements of witnesses.**

4 No later than the last administrative setting prior to trial or at such time as the court
5 permits, or at the time of any postindictment pretrial evidentiary hearing other than a
6 bond hearing, the prosecution or the defendant shall produce for the opposing party any
7 statement of any witness that is in the possession, custody, or control of the State or
8 prosecution or in the possession, custody, or control of the defendant or the defendant's
9 counsel that relates to the subject matter concerning the testimony of the witness that the
10 party in possession, custody, or control of the statement intends to call as a witness at
11 trial or at such postindictment pretrial evidentiary hearing.

12 **"§ 15A-914. Disclosure of affirmative defenses.**

13 Any defendant who intends to rely upon any affirmative defense such as: alibi,
14 duress, entrapment, insanity, mental infirmity, diminished capacity, self-defense,
15 accident, automatism, involuntary intoxication or voluntary intoxication or any other
16 defense where the defendant has the burden of producing evidence is not entitled to
17 discovery from the State until after the defense notifies the State in writing of the
18 affirmative defense and the basis in support thereof. This notice must be served on the
19 State no later than the last administrative setting before trial.

20 **"§ 15A-915. Waiver of probable cause hearing.**

21 Any defendant who avails himself of any discovery from the State pursuant to this
22 Article is deemed to have waived his right to a probable cause hearing under Article 30
23 of this Chapter."

24 **SECTION 3.** There is appropriated from the General Fund to the
25 Administrative Office of the Courts the sum of fifty thousand dollars (\$50,000) for the
26 2004-2005 fiscal year to implement this act.

27 **SECTION 4.** This act becomes effective December 1, 2004, and applies to
28 offenses committed on or after that date.