

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 579

By: Senator A. Clark

For An Act To Be Entitled

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

Subtitle

TO REQUIRE THE DISCLOSURE OF ALL EVIDENCE IN THE POSSESSION OF THE STATE TO A CRIMINAL DEFENDANT, WHETHER THE EVIDENCE IS INCULPATORY, EXCULPATORY, OR NEITHER INCULPATORY NOR EXCULPATORY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Chapter 85, Subchapter 1, is amended to add an additional section to read as follows:

16-85-103. Requirement to disclose evidence.

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

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

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



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

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

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

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

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

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

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

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

(1) Using the contempt power of the court;

(2) Excluding certain evidence;

(3) Postponement of proceedings; and

(4) Dismissal of the case.