

1 AN ACT concerning criminal law.

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

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

6 (725 ILCS 5/115-21)

7 Sec. 115-21. Informant testimony.

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

12 (b) This Section applies to any criminal proceeding brought  
13 under Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3,  
14 11-1.30, 11-1.40, or 20-1.1 of the Criminal Code of 1961 or the  
15 Criminal Code of 2012, capital case in which the prosecution  
16 attempts to introduce evidence of incriminating statements  
17 made by the accused to or overheard by an informant.

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

22 (1) the complete criminal history of the informant;

23 (2) any deal, promise, inducement, or benefit that the

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

3 (3) the statements made by the accused;

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

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

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

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

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

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

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

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

1 ~~lawfully recorded.~~

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

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

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