



Sen. Michael E. Hastings

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LRB100 09232 SLF 23215 a

1 AMENDMENT TO SENATE BILL 1830

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1830 by replacing  
3 everything after the enacting clause with the following:

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  
15 the Criminal Code of 2012, ~~capital case~~ in which the  
16 prosecution attempts to introduce evidence of incriminating

1 statements made by the accused to or overheard by an informant.

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

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

7 (2) any deal, promise, inducement, or benefit that the  
8 offering party has made or will make in the future to the  
9 informant;

10 (3) the statements made by the accused;

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

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

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

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

1           (d) Except as provided in subsection (d-5), in ~~in~~ any case  
2 under this Section, the prosecution shall ~~must~~ timely disclose  
3 at least 30 days prior to any relevant evidentiary hearing or  
4 trial its intent to introduce the testimony of an informant.  
5 The court shall conduct a hearing to determine whether the  
6 testimony of the informant is reliable, unless the defendant  
7 waives such a hearing. If the prosecution fails to show by a  
8 preponderance of the evidence that the informant's testimony is  
9 reliable, the court shall not allow the testimony to be heard  
10 at trial. At this hearing, the court shall consider the factors  
11 enumerated in subsection (c) as well as any other factors  
12 relating to reliability.

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

25           (e) If a lawful recording of an incriminating statement is  
26 made of an accused to an informant or made of a statement of an

1 informant to law enforcement or the prosecution, including any  
2 deal, promise, inducement, or other benefit offered to the  
3 informant, the accused may request a reliability hearing under  
4 subsection (d) of this Section and the prosecution shall be  
5 subject to the disclosure requirements of subsection (c) of  
6 this Section. A hearing required under subsection (d) does not  
7 apply to statements covered under subsection (b) that are  
8 lawfully recorded.

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

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

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