

1 AN ACT in relation to 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 adding Section 115-21 as follows:

6 (725 ILCS 5/115-21 new)

7 Sec. 115-21. Duty to disclose evidence helpful to the
8 defense.

9 (a) In a criminal case, the State shall make timely
10 disclosure to the defense counsel, or to the defendant if the
11 defendant is not represented by counsel, of the existence of
12 evidence that is material and tends to negate the guilt of
13 the accused, impeach witnesses whom the State will be calling
14 as witnesses, or mitigate the degree of punishment.

15 (b) If the court determines that evidence, as defined in
16 subsection (a), existed and was not disclosed to the defense
17 counsel, or to the defendant if the defendant is not
18 represented by counsel, and had a tendency to negate the
19 guilt of the accused or impeach State witnesses, then the
20 defendant shall be granted a new trial unless the State can
21 establish by clear and convincing evidence that the outcome
22 of the trial would have been the same.

23 (c) If evidence, as defined in subsection (a), was not
24 disclosed to the defense counsel, or to the defendant if the
25 defendant is not represented by counsel, and relates only to
26 an issue relevant to sentencing, then the court shall vacate
27 the sentence and conduct a new sentencing hearing unless the
28 State can establish by clear and convincing evidence that the
29 sentence was appropriate.

30 (d) This Section does not serve as a substitute for post
31 trial motions allowed under Section 2-1401 of the Code of

1 Civil Procedure.

2 (e) This Section applies to all actions initiated on or

3 after the effective date of this amendatory Act of the 93rd

4 General Assembly.