

1 AMENDMENT TO SENATE BILL 469

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 469 as follows:

3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Code of Criminal Procedure of 1963 is  
6 amended by adding Section 115-21 as follows:

7 (725 ILCS 5/115-21 new)

8 Sec. 115-21. Informant testimony.

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

13 (b) This Section applies to any capital case in which  
14 the prosecution attempts to introduce evidence of  
15 incriminating statements made by the accused to an informant.

16 (c) In any case under this Section, the prosecution  
17 shall timely disclose in discovery:

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

19 (2) any deal, promise, inducement, or benefit that  
20 the offering party has made or will make in the future to  
21 the informant;

1           (3) the statements made by the accused;

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

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

10          (6) other cases of which the prosecution is aware  
11 in which the informant testified against an individual or  
12 offered a statement against an individual, and whether  
13 the informant received any deal, promise, inducement, or  
14 benefit in exchange for or subsequent to that testimony  
15 or statement; and

16          (7) any other information relevant to the  
17 informant's credibility.

18          (d) In any case under this Section, the prosecution must  
19 timely disclose its intent to introduce the testimony of an  
20 informant. The court shall conduct a hearing to determine  
21 whether the testimony of the informant is reliable, unless  
22 the defendant waives such a hearing. If the prosecution  
23 fails to show by a preponderance of the evidence that the  
24 informant's testimony is reliable, the court shall not allow  
25 the testimony to be heard at trial. At this hearing, the  
26 court shall consider the factors enumerated in subsection (c)  
27 as well as any other factors relating to reliability.

28          (e) A hearing required under subsection (d) does not  
29 apply to statements covered under subsection (b) that are  
30 lawfully recorded.

31          (f) This Section applies to all death penalty  
32 prosecutions initiated on or after the effective date of this  
33 amendatory Act of the 93rd General Assembly.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".