

1 AMENDMENT TO HOUSE BILL 1843

2 AMENDMENT NO. _____. Amend House Bill 1843, AS AMENDED,
3 as follows:

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

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

8 (725 ILCS 5/115-21 new)

9 Sec. 115-21. Duty to disclose evidence helpful to the
10 defense.

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

17 (b) If the court determines that evidence, as defined in
18 subsection (a), existed and was not disclosed to the defense
19 counsel, or to the defendant if the defendant is not
20 represented by counsel, and had a tendency to negate the
21 guilt of the accused or impeach State witnesses, then the

1 defendant shall be granted a new trial unless the State can
2 establish by clear and convincing evidence that the outcome
3 of the trial would have been the same.

4 (c) If evidence, as defined in subsection (a), was not
5 disclosed to the defense counsel, or to the defendant if the
6 defendant is not represented by counsel, and relates only to
7 an issue relevant to sentencing, then the court shall vacate
8 the sentence and conduct a new sentencing hearing unless the
9 State can establish by clear and convincing evidence that the
10 sentence was appropriate.

11 (d) This Section does not serve as a substitute for post
12 trial motions allowed under Section 2-1401 of the Code of
13 Civil Procedure.

14 (e) This Section applies to all actions initiated on or
15 after January 1, 2002.

16 Section 99. Effective date. This Act takes effect
17 January 1, 2002."