

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1009*
Judiciary I (Civil) Committee Substitute Adopted 5/22/07

Short Title: Discovery/DA Notes.

(Public)

Sponsors:

Referred to:

March 21, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A WITNESS'S ORAL STATEMENTS TO A PROSECUTING ATTORNEY DO NOT NEED TO BE RECORDED UNLESS THE STATEMENT CONTAINS SIGNIFICANTLY NEW OR DIFFERENT INFORMATION FROM A PRIOR STATEMENT AND TO PROVIDE WHAT TYPE OF WITNESS IDENTIFICATION INFORMATION MUST BE DISCLOSED TO THE DEFENDANT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-903(a)(1) reads as rewritten:

"§ 15A-903. Disclosure of evidence by the State – Information subject to disclosure.

(a) Upon motion of the defendant, the court must order the State to:

(1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded ~~form~~ form, except that oral statements made by a witness to a prosecuting attorney outside the presence of a law enforcement officer or investigatorial assistant shall not be required to be in written or recorded form unless there is significantly new or different information in the oral statement from a prior statement made by the witness. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein."

1 **SECTION 2.** G.S. 15A-904 reads as rewritten:

2 "**§ 15A-904. Disclosure by the State – Certain information not subject to**
3 **disclosure.**

4 (a) The State is not required to disclose written materials drafted by the
5 prosecuting attorney or the prosecuting attorney's legal staff for their own use at trial,
6 including witness examinations, voir dire questions, opening statements, and closing
7 arguments. Disclosure is also not required of legal research or of records,
8 correspondence, reports, memoranda, or trial preparation interview notes prepared by
9 the prosecuting attorney or by members of the prosecuting attorney's legal staff to the
10 extent they contain the opinions, theories, strategies, or conclusions of the prosecuting
11 attorney or the prosecuting attorney's legal staff.

12 (a1) The State is not required to disclose the identity of a confidential informant
13 unless the disclosure is otherwise required by law.

14 (a2) The State is not required to provide any personal identifying information of a
15 witness beyond that witness's name, address, date of birth, and published phone number,
16 unless the court determines upon motion of the defendant that such additional
17 information is necessary to accurately identify and locate the witness.

18 (b) Nothing in this section prohibits the State from making voluntary disclosures
19 in the interest of justice nor prohibits a court from finding that the protections of this
20 section have been waived.

21 (c) This section shall have no effect on the State's duty to comply with federal or
22 State constitutional disclosure requirements."

23 **SECTION 3.** This act is effective when it becomes law and applies to
24 pending cases.