

2022 Regular Session

HOUSE BILL NO. 484

BY REPRESENTATIVE JORDAN

CRIMINAL/DISCOVERY: Provides relative to pre-trial discovery matters

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 716, relative to pre-trial
3 discovery; to provide for the disclosure of statements and witness lists; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 716 is hereby amended and reenacted
7 to read as follows:

8 Art. 716. Statements by the defendant, codefendants, and witnesses

9 A. ~~Upon written motion of the defendant, the court shall order the~~ The
10 district attorney ~~to~~ shall disclose to the defendant, and ~~to~~ permit or authorize the
11 defendant to inspect and copy, photograph or otherwise reproduce any relevant
12 written or recorded confession or statement of any nature, including recorded
13 testimony before a grand jury, or copy thereof, of the defendant in the possession,
14 custody, control, or knowledge of the district attorney.

15 B. Except as provided by Paragraph C of this Article, ~~upon written motion~~
16 ~~of the defendant, the court shall order~~ the district attorney ~~to~~ shall inform the
17 defendant of the existence, but not the contents, of any oral confession or statement
18 of any nature made by the defendant or any codefendant which the district attorney
19 intends to offer in its case in chief at the trial, with the information as to when,
20 where, and to whom such oral confession or statement was made.

1 C. ~~Upon written motion of the defendant, the court shall order the~~ The
 2 district attorney ~~to~~ shall inform the defendant of the substance of any oral statement
 3 made by the defendant or any codefendant which the state intends to offer in its case
 4 in chief at the trial, whether before or after arrest, in response to interrogation by any
 5 person then known to the defendant or the codefendant to be a law enforcement
 6 officer.

7 D. ~~Upon written motion of the defendant, the court shall order the~~ The
 8 district attorney ~~to~~ shall disclose to the defendant, and ~~to~~ permit or authorize the
 9 defendant to inspect and copy any written or recorded statements of any witness the
 10 state intends to call in its case in chief at the trial. For purposes of this Article: (1)
 11 "written or recorded statement of a witness" shall mean any audio or audio-video
 12 recording of an oral statement or interview of a witness, and any statement a witness
 13 writes or signs; (2) for the purposes of this Article, "trial" shall mean the phase of the
 14 case at which the state attempts to meet its burden as to guilt, and specifically does
 15 not extend to pretrial matters or hearings, or to the penalty phase in capital
 16 prosecutions. ~~The state need not provide the defendant any written or recorded~~
 17 ~~statement of its witnesses until immediately prior to the opening statement at trial.~~

18 E. ~~Nothing in this Chapter shall be construed to require that testimony before~~
 19 ~~a grand jury be recorded.~~ The district attorney shall disclose to the defendant any
 20 evidence constitutionally required to be disclosed pursuant to *Brady v. Maryland*,
 21 373 U.S. 83 (1963) and its progeny as well as a list of the witnesses the district
 22 attorney intends to call in its case in chief.

23 F. ~~Nothing contained in this Chapter shall obligate the state to provide to any~~
 24 ~~defendant a witness list for any trial or pretrial matter.~~ Nothing in this Chapter shall
 25 be construed to require that testimony before a grand jury be recorded.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 484 Original

2022 Regular Session

Jordan

Abstract: Requires district attorneys to turn over statements, confessions, witness lists, and all other evidence constitutionally required to be disclosed pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) to defendants.

Present law provides that upon written motion of the defendant, the court shall order the district attorney to disclose the following to the defendant:

- (1) Any relevant written or recorded confession or statement of any nature, including recorded testimony before a grand jury, or copy thereof, of the defendant in the possession, custody, control, or knowledge of the district attorney.
- (2) The existence, but not the contents, of any oral confession or statement of any nature made by the defendant or any codefendant which the district attorney intends to offer in its case in chief at the trial, with the information as to when, where, and to whom such oral confession or statement was made.
- (3) The substance of any oral statement made by the defendant or any codefendant which the state intends to offer in its case in chief at the trial, whether before or after arrest, in response to interrogation by any person then known to the defendant or the codefendant to be a law enforcement officer.
- (4) Written or recorded statements of any witness the state intends to call in its case in chief at the trial.

Present law defines "written or recorded statement of a witness" and "trial".

Present law provides that testimony before a grand jury does not need to be recorded.

Proposed law amends present law to require district attorneys to disclose to the defendant all of the following:

- (1) Any relevant written or recorded confession or statement of any nature, including recorded testimony before a grand jury, or copy thereof, of the defendant in the possession, custody, control, or knowledge of the district attorney.
- (2) The existence, but not the contents, of any oral confession or statement of any nature made by the defendant or any codefendant which the district attorney intends to offer in its case in chief at the trial, with the information as to when, where, and to whom such oral confession or statement was made.
- (3) The substance of any oral statement made by the defendant or any codefendant which the state intends to offer in its case in chief at the trial, whether before or after arrest, in response to interrogation by any person then known to the defendant or the codefendant to be a law enforcement officer.
- (4) Written or recorded statements of any witness the state intends to call in its case in chief at the trial.

Present law provides that the state is not obligated to provide to any defendant a witness list for any trial or pretrial matter.

Proposed law amends present law to require district attorneys to disclose to the defendant any evidence constitutionally required to be disclosed pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny as well as a list of the witnesses the district attorney intends to call in its case in chief.

(Amends C.Cr.P. Art. 716)