
DIGEST

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Honore

HB No. 397

Abstract: Provides for open file and reciprocal open file discovery.

Present law provides for discovery by the defendant in criminal cases.

Proposed law retains present law and further provides that upon written motion of the defendant specifically requesting open file discovery, the district attorney shall indicate, in writing or otherwise upon the record, whether the state will provide the defendant with open file discovery.

Proposed law provides that if the district attorney declines to provide open file discovery nothing in proposed law shall be binding upon the state or the defense, except as otherwise required by law.

Proposed law provides that if the district attorney, elects to provide open file discovery pursuant to proposed law, the court shall order the district attorney:

- (1) To permit or authorize the defendant to inspect, copy, examine, test scientifically, photograph, or otherwise reproduce all otherwise disclosed material required by present law and the complete files of all law enforcement agencies, investigatory agencies, and district attorney's offices involved in the investigation of the crimes committed or the prosecution of the defendant.
- (2) To give notice to the defendant of any expert witnesses that the district attorney reasonably expects to call at trial.
- (3) To give the defendant, at the beginning of jury selection, a written list of the names and birth dates of all other witnesses whom the district attorney reasonably expects to call during the trial.

Proposed law provides that defense counsel shall provide the district attorney with the same discovery if ordered by the court.

Proposed law further provides that upon written motion of a party and a finding of good cause, which may include but is not limited to a finding that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment, the court may at any time order that discovery or inspection be denied, restricted, or deferred, or may make other appropriate orders. A party may apply ex parte for a protective

order and, if an ex parte order is granted, the opposing party shall receive notice that the order was entered, but without disclosure of the subject matter of the order.

Proposed law provides that the court may permit parties seeking protective orders to submit supporting affidavits, or statements in support of the motion for in camera inspection, if the motion is granted such documents and affidavits shall be sealed and preserved in the records of the court.

(Amends C.Cr.P. Art. 723; Adds C.Cr.P. Arts. 723.1, 728.1, and 729.1(C))