
Judiciary Committee

HB 2613

Title: An act relating to materials furnished to an attorney pursuant to discovery in a criminal case.

Brief Description: Providing discovery provisions for criminal cases.

Sponsors: Representatives O'Brien, Strow, Ericks, Ahern, Rodne, Woods, McCune and Sump.

Brief Summary of Bill

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| <ul style="list-style-type: none">• Provides that discovery materials obtained in criminal cases must remain in the exclusive custody of the attorney and may be used only for preparation of the party's case. |
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Hearing Date: 1/25/06

Staff: Edie Adams (786-7180).

Background:

Discovery in criminal cases is governed by court rules for criminal proceedings, specifically Criminal Rule (CrR) 4.7. CrR 4.7 is a reciprocal discovery rule that separately lists the obligations of both the prosecutor and the defendant when engaging in discovery.

Custody of materials obtained during discovery in a criminal case is addressed in under CrR 4.7 (h)(3), which was recently amended effective September 1, 2005. The rule generally provides that materials furnished to a lawyer under the discovery rules must remain in the exclusive custody of the lawyer and be used only for the purposes of conducting the party's case.

The amended rule now provides that this limitation does not apply if either the parties agree or the court orders otherwise. In addition, the amended rule allows a defense lawyer to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecutor or the court.

Summary of Bill:

A new provision is added to the criminal procedure code relating to the custody of discovery materials obtained in criminal cases.

Materials provided to an attorney as the result of discovery in a criminal case must remain in the exclusive custody of the attorney. The materials may be used only for the purposes of conducting the party's side of the case, and are subject to terms and conditions imposed by the court.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.