



Substitute Senate Bill No. 1098

Public Act No. 19-131

AN ACT CONCERNING THE TESTIMONY OF JAILHOUSE WITNESSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2019*) (a) In any criminal prosecution, upon written request by a defendant filed with the court, but not requiring an order of the court, the defendant may request of the prosecutorial official whether such official intends to introduce testimony of a jailhouse witness. The prosecutorial official shall promptly, but not later than forty-five days after the filing of such motion, disclose to the defendant whether the official intends to introduce such testimony and, if so, the following information and material:

(1) The complete criminal history of any such jailhouse witness, including any charges pending against such witness, or which were reduced or dismissed as part of a plea bargain;

(2) The jailhouse witness's cooperation agreement with the prosecutorial official and any benefit that the official has provided, offered or may offer in the future to any such jailhouse witness;

(3) The substance, time and place of any statement allegedly given by the defendant to a jailhouse witness, and the substance, time and

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place of any statement given by a jailhouse witness implicating the defendant in an offense for which the defendant is indicted;

(4) Whether at any time the jailhouse witness recanted any testimony subject to the disclosure and, if so, the time and place of the recantation, the nature of the recantation and the name of any person present at the recantation; and

(5) Information concerning any other criminal prosecution in which the jailhouse witness testified, or offered to testify, against a person suspected as the perpetrator of an offense or defendant with whom the jailhouse witness was imprisoned or otherwise confined, including any cooperation agreement with a prosecutorial official or any benefit provided or offered to such witness by a prosecutorial official.

(b) The prosecutorial official may move for an extension of time to make any disclosure pursuant to subsection (a) of this section. The court may agree to such extension of time if the court finds that the jailhouse witness was not known to the prosecutorial official at the time the defendant filed the written request under subsection (a) of this section, and that information or material required to be disclosed pursuant to subsection (a) of this section could not be disclosed with the exercise of due diligence within the period of time required under subsection (a) of this section. Upon good cause shown, the court may set a reasonable extension of time or may, upon the court's own motion, allow such extension.

(c) If the court finds that a disclosure pursuant to subsection (a) of this section may result in the possibility of bodily harm to the jailhouse witness, the court may order that such information or material may only be viewed by the defense counsel, and not by the defendant or other parties.

(d) For the purposes of this section, "benefit" means any plea

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bargain, bail consideration, reduction or modification of sentence or any other leniency, immunity, financial payment, reward or amelioration of current or future conditions of incarceration offered or provided in connection with, or in exchange for, testimony that is offered or provided by a jailhouse witness; and "jailhouse witness" means a person who is incarcerated at the time that he or she offers or provides testimony concerning statements made by a person suspected as the perpetrator of an offense or a defendant.

Sec. 2. (NEW) (*Effective October 1, 2019*) (a) In any criminal prosecution of a defendant for a violation of section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-70, 53a-70a or 53a-70c of the general statutes, upon a motion of the defendant before the start of a trial on any such offense, the court shall conduct a hearing to determine whether any jailhouse witness's testimony is reliable and admissible. The court shall make such determination concerning the reliability of the witness after evaluation of the information or material disclosed pursuant to subdivisions (1) to (5), inclusive, of subsection (a) of section 1 of this act, and the following factors:

(1) The extent to which the jailhouse witness's testimony is confirmed by other evidence;

(2) The specificity of the testimony;

(3) The extent to which the testimony contains details known only by the perpetrator of the alleged offense;

(4) The extent to which the details of the testimony could be obtained from a source other than the defendant; and

(5) The circumstances under which the jailhouse witness initially provided information supporting such testimony to a sworn member of a municipal police department, a sworn member of the Division of State Police within the Department of Emergency Services and Public

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Protection or a prosecutorial official, including whether the jailhouse witness was responding to a leading question.

(b) If the prosecutorial official fails to show by a preponderance of the evidence that the jailhouse witness's testimony is reliable, the court shall not allow the testimony to be admitted.

(c) For the purposes of this section, "jailhouse witness" means jailhouse witness, as defined in section 1 of this act.

Sec. 3. (NEW) (*Effective October 1, 2019*) (a) Each state's attorney's office shall track the following:

(1) The substance and use of any testimony of a jailhouse witness, as defined in section 1 of this act, against the interest of a (A) person suspected as the perpetrator of an offense, or (B) defendant, regardless of whether such testimony is presented at trial; and

(2) The jailhouse witness's agreement to cooperate with the state's attorney and benefit, as defined in section 1 of this act, that the state's attorney has provided, offered or may offer in the future to the jailhouse witness in connection with the testimony described in subdivision (1) of this subsection.

(b) Each state's attorney's office shall send the information described in subsection (a) of this section to the Criminal Justice Policy and Planning Division within the Office of Policy and Management, which shall maintain a state-wide record of such materials. Such information shall be confidential and not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes.

Approved July 8, 2019