



General Assembly

January Session, 2019

Raised Bill No. 1098

LCO No. 6388



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING THE TESTIMONY OF JAILHOUSE WITNESSES.

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

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

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

13 (2) The jailhouse witness's cooperation agreement with the
14 prosecutorial official and any benefit that the official has provided,

15 offered or may offer in the future to any such jailhouse witness;

16 (3) The substance, time and place of any statement allegedly given
17 by the defendant to a jailhouse witness, and the substance, time and
18 place of any statement given by a jailhouse witness implicating the
19 defendant in a crime for which a defendant is indicted;

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

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

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

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

46 (d) For the purposes of this section, "benefit" means any plea
47 bargain, bail consideration, reduction or modification of sentence or
48 any other leniency, immunity, financial payment, reward or
49 amelioration of current or future conditions of incarceration offered or
50 provided in connection with, or in exchange for, testimony that is
51 offered or provided by a jailhouse witness; and "jailhouse witness"
52 means a person who is incarcerated at the time that he or she offers or
53 provides testimony concerning statements made by a person suspected
54 as the perpetrator of an offense or a defendant.

55 Sec. 2. (NEW) (*Effective October 1, 2019*) (a) In any criminal
56 prosecution of a defendant for an offense of section 53a-54a, 53a-54b,
57 53a-54c, 53a-54d, 53a-70, 53a-70a or 53a-70c of the general statutes,
58 upon a motion of the defendant before the start of a trial on any such
59 offense, the court shall conduct a hearing to decide whether any
60 jailhouse witness's testimony is reliable and admissible. The court shall
61 make such determination concerning the reliability of the witness after
62 evaluation of the information or material disclosed pursuant to
63 subdivisions (1) to (5), inclusive, of subsection (a) of section 1 of this
64 act, as well as the following factors:

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

67 (2) The specificity of the testimony;

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

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

72 (5) The circumstances under which the jailhouse witness initially
73 provided information supporting such testimony to a sworn member
74 of a municipal police department, a sworn member of the Division of
75 State Police within the Department of Emergency Services and Public
76 Protection or a prosecutorial official, including whether the jailhouse

77 witness was responding to a leading question.

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

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

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

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

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

94 (b) Each state's attorney's office shall send the information described
95 in subsection (a) of this section to the Criminal Justice Policy and
96 Planning Division within the Office of Policy and Management, which
97 shall maintain a state-wide record of such materials.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>October 1, 2019</i>	New section
Sec. 3	<i>October 1, 2019</i>	New section

Statement of Purpose:

To add safeguards against the use of unreliable testimony in a criminal case.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]