

WESTLAW

Part: 1 of 2

Vernon's Texas Statutes and Codes Annotated

Art. 39.14. Discovery

Vernon's Texas Statutes and Codes Annotated Code of Criminal Procedure Effective: September 1, 2015 (Approx. 3 pages)

Trial and Its Incidents

Chapter Thirty-Nine. Depositions and Discovery (Refs & Annos)

Effective: September 1, 2015

Vernon's Ann.Texas C.C.P. Art. 39.14

Art. 39.14. Discovery

Currentness

(a) Subject to the restrictions provided by Section 264.408, Family Code, and Article 39.15 of this code, as soon as practicable after receiving a timely request from the defendant the state shall produce and permit the inspection and the electronic duplication, copying, and photographing, by or on behalf of the defendant, of any offense reports, any designated documents, papers, written or recorded statements of the defendant or a witness, including witness statements of law enforcement officers but not including the work product of counsel for the state in the case and their investigators and their notes or report, or any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged that constitute or contain evidence material to any matter involved in the action and that are in the possession, custody, or control of the state or any person under contract with the state. The state may provide to the defendant electronic duplicates of any documents or other information described by this article. The rights granted to the defendant under this article do not extend to written communications between the state and an agent, representative, or employee of the state. This article does not authorize the removal of the documents, items, or information from the possession of the state, and any inspection shall be in the presence of a representative of the state.

(b) On a party's request made not later than the 30th day before the date that jury selection in the trial is scheduled to begin or, in a trial without a jury, the presentation of evidence is scheduled to begin, the party receiving the request shall disclose to the requesting party the name and address of each person the disclosing party may use at trial to present evidence under Rules 702, 703, and 705, Texas Rules of Evidence. Except as otherwise provided by this subsection, the disclosure must be made in writing in hard copy form or by electronic means not later than the 20th day before the date that jury selection in the trial is scheduled to begin or, in a trial without a jury, the presentation of evidence is scheduled to begin. On motion of a party and on notice to the other parties, the court may order an earlier time at which one or more of the other parties must make the disclosure to the requesting party.

(c) If only a portion of the applicable document, item, or information is subject to discovery under this article, the state is not required to produce or permit the inspection of the remaining portion that is not subject to discovery and may withhold or redact that portion. The state shall inform the defendant that a portion of the document, item, or information has been withheld or redacted. On request of the defendant, the court shall conduct a

NOTES OF DECISIONS (549)

- In general
- Construction and application
- Burden of proof
- Motions
- Good cause, materiality and possession, motions
- Broad motions
- Denial of discovery, motions
- Possession by prosecutor, motions
- Brady rule
- Exculpatory and mitigating value, Brady rule
- Withholding of evidence, Brady rule
- Materiality, Brady rule
- Prejudice, Brady rule
- Discretion of court
- Effective assistance of counsel
- Inspection
- Indigents, inspection
- "Gaskin Rule", inspection
- "Use before the jury rule", inspection
- Physical examination, inspection
- Psychological examination, inspection
- Grand jury proceedings
- Testimony at grand jury proceedings
- Minutes of grand jury proceedings
- Transcript of grand jury proceedings
- Tape recording of grand jury proceedings
- Codefendant trial transcript
- Hearsay
- Removal of evidence
- Lost or destroyed evidence
- Chain of custody
- Work product
- Police offense reports
- Breathalyzer tests
- Police radar equipment
- Police department files
- Statements of defendant
- Confidential records
- Physical examination report
- Field notes
- Ballistics
- Medical records
- Autopsy reports
- Chemical analyses
- Controlled substances
- Bodily fluids and tissues
- Fingerprints
- Photographs
- Personnel records
- Videotapes
- Tape recordings, generally

hearing to determine whether withholding or redaction is justified under this article or other law.

(d) In the case of a pro se defendant, if the court orders the state to produce and permit the inspection of a document, item, or information under this subsection, the state shall permit the pro se defendant to inspect and review the document, item, or information but is not required to allow electronic duplication as described by Subsection (a).

(e) Except as provided by Subsection (f), the defendant, the attorney representing the defendant, or an investigator, expert, consulting legal counsel, or other agent of the attorney representing the defendant may not disclose to a third party any documents, evidence, materials, or witness statements received from the state under this article unless:

(1) a court orders the disclosure upon a showing of good cause after notice and hearing after considering the security and privacy interests of any victim or witness; or

(2) the documents, evidence, materials, or witness statements have already been publicly disclosed.

(f) The attorney representing the defendant, or an investigator, expert, consulting legal counsel, or agent for the attorney representing the defendant, may allow a defendant, witness, or prospective witness to view the information provided under this article, but may not allow that person to have copies of the information provided, other than a copy of the witness's own statement. Before allowing that person to view a document or the witness statement of another under this subsection, the person possessing the information shall redact the address, telephone number, driver's license number, social security number, date of birth, and any bank account or other identifying numbers contained in the document or witness statement. For purposes of this article, the defendant may not be the agent for the attorney representing the defendant.

(g) Nothing in this article shall be interpreted to limit an attorney's ability to communicate regarding his or her case within the Texas Disciplinary Rules of Professional Conduct, except for the communication of information identifying any victim or witness, including name, except as provided in Subsections (e) and (f), address, telephone number, driver's license number, social security number, date of birth, and bank account information or any information that by reference would make it possible to identify a victim or a witness. Nothing in this subsection shall prohibit the disclosure of identifying information to an administrative, law enforcement, regulatory, or licensing agency for the purposes of making a good faith complaint.

(h) Notwithstanding any other provision of this article, the state shall disclose to the defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the state that tends to negate the guilt of the defendant or would tend to reduce the punishment for the offense charged.

(i) The state shall electronically record or otherwise document any document, item, or other information provided to the defendant under this article.

(j) Before accepting a plea of guilty or nolo contendere, or before trial, each party shall acknowledge in writing or on the record in open court the disclosure, receipt, and list of all documents, items, and information provided to the defendant under this article.

(k) If at any time before, during, or after trial the state discovers any additional document, item, or information required to be disclosed under Subsection (h), the state shall promptly disclose the existence of the document, item, or information to the defendant or the court.

(l) A court may order the defendant to pay costs related to discovery under this article, provided that costs may not exceed the charges prescribed by Subchapter F, Chapter 552, Government Code.

(m) To the extent of any conflict, this article prevails over Chapter 552, Government Code.

(n) This article does not prohibit the parties from agreeing to discovery and documentation

Criminal records of defendant
 Criminal record of victim
 Evidence of other crimes
 Voluntary statements
 Conspiracy
 Witnesses
 Criminal records, witnesses
 Identification, witnesses
 Locating witness, witnesses
 Psychological examination, witnesses
 Written statements of witnesses
 Expert witnesses
 Informants
 Jurors
 Indictment and information
 Sanctions
 Time of disclosure, generally
 Mandamus
 Continuance
 Review
 Authority of the court

requirements equal to or greater than those required under this article.

Credits

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1999, 76th Leg., ch. 578, § 1, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 1019, § 1, eff. June 18, 2005; Acts 2009, 81st Leg., ch. 276, § 2, eff. Sept. 1, 2009; Acts 2013, 83rd Leg., ch. 49 (S.B. 1611), § 2, eff. Jan. 1, 2014; Acts 2015, 84th Leg., ch. 459 (H.B. 510), § 1, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 1236 (S.B. 1296), § 4.001, eff. Sept. 1, 2015.

Editors' Notes

CROSS REFERENCES

Use of information and records, confidentiality and ownership, children's advocacy centers, see V.T.C.A., Family Code § 264.408.

Victim impact statement, subject to discovery under this article, see Vernon's Ann. Texas C.C.P. art. 56.03.

LAW REVIEW COMMENTARIES

Annual survey of Texas law: Criminal discovery. Walter W. Steele Jr., 35 Sw.L.J. 535 (1981).

Copy of report compiled by law enforcement agency in course of investigation into criminal offense not required to be given to defendant. 8 S.Tex.L.J. 130 (1966).

Criminal discovery. Charles W. Tessmer, 28 Tex.B.J. 855 (1965); Grace Dana Runge, 47 Tex.L.Rev. 1182 (1969); E. Wayne Thode, 1 Tex.Tech L.Rev. 183 (1970).

Discovery rights of criminal defendants. 17 Baylor L.Rev. 451 (1965).

Documentation under the New Code--Discovery. Tom Blackwell, 29 Tex.B.J. 243, 298 (1966).

Investigation and discovery in criminal cases. Glenn A. Perry, 41 Tex.B.J. 88 (1978).

Preparation for trial; Texas Code of Criminal Procedure. William G. Reid, 44 Tex.L.Rev. 983, 1000 (1966).

Significant changes to the Texas criminal discovery statute. Jessica A. Caird, 51-Feb. Hous. Law. 10(Jan.-Feb. 2014).

Two views of Morton: When the Michael Morton act took effect in January 2014, it changed the way criminal cases are handled in Texas--and how prosecutors and defense attorneys work. Randall Sims, R. Marc Ranc, 77 Tex. B.J. 964 (2014).

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Criminal Law §§ 627.5, 700(2).

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C.J.S. Criminal Law §§ 322, 449 to 451, 454, 486 to 493, 495 to 520, 1210, 1233, 1236, 1246.

RESEARCH REFERENCES

2015 Electronic Update

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86 ALR 3rd 571, Right of Defense in Criminal Prosecution to Disclosure of Prosecution Information Regarding Prospective Jurors.

Encyclopedias

5 Am. Jur. Trials 27, Pretrial Procedures and Motions in Criminal Cases.