

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

S

1

SENATE BILL 1129

Short Title: Open Discovery/Access to Officers' Notes.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Judiciary I (Civil).

March 22, 2007

A BILL TO BE ENTITLED
AN ACT CLARIFYING THAT DEFENDANTS MUST HAVE ACCESS TO ALL
LAW ENFORCEMENT NOTES IN THE OPEN DISCOVERY PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-903(a)(1) reads as rewritten:

"(1) Make available to the defendant the complete files of all law enforcement and prosecutorial agencies involved in the investigation of the crimes committed or the prosecution of the defendant. The term "file" includes the defendant's statements, the codefendants' statements, witness statements, investigating officers' notes, results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant. The term "officer note" includes any handwritten note taken by the officer in the investigation of offenses alleged to have been committed by the defendant. Oral statements shall be in written or recorded form. The defendant shall have the right to inspect and copy or photograph any materials contained therein and, under appropriate safeguards, to inspect, examine, and test any physical evidence or sample contained therein."

SECTION 2. G.S. 15A-910(a) reads as rewritten:

"(a) If at any time during the course of the proceedings the court determines that a party has failed to comply with this Article or with an order issued pursuant to this Article, the court in addition to exercising its contempt powers ~~may~~may:

- (1) Order the party to permit the discovery or ~~inspection~~, or inspection.
- (2) Grant a continuance or ~~recess~~, or recess.
- (3) Prohibit the party from introducing evidence not ~~disclosed~~, or disclosed, and if the evidence is a police officer's testimony the court may disallow material uncorroborated by personal contemporaneous

1 officer's notes and contradicting the contemporaneous notes of other
2 officers.

3 (3a) Declare a ~~mistrial~~, or mistrial.

4 (3b) Dismiss the charge, with or without ~~prejudice~~, or prejudice.

5 (4) Enter other appropriate orders."

6 **SECTION 3.** This act becomes effective October 1, 2007.