

not to prosecute the witness for criminal acts or to recommend a particular punishment in the disposition of a criminal case.

- (4) Notice of other crimes, wrongs or acts of the Defendant permitted by Rule 404(b) of the Texas Rules of Evidence that the State desires to use upon the trial of the case.
- (5) Notice as required by Article 37.07(3)(g) of the Texas Code of Criminal Procedure of any extraneous crime or bad act of the Defendant that has not resulted in a final conviction in a court of record or a probated or suspended sentence.
- (6) Notice of the intent to use certified copies.
- (7) All pretrial motions, including challenges to expert witnesses, must be filed in conformity with Article 28.01 of the Code of Criminal Procedure. The defendant may waive a pre-trial hearing upon the filing of a written instrument bearing the defendant's signature and that of his or her attorney.

This order shall be an ongoing one so that the District Attorney shall be required to make available to the Defendant's attorneys any new evidence coming into his possession or knowledge which is required to be produced under this order by placing it in his file for inspection by the attorney for the Defendant.

The purpose of this Order is to eliminate the necessity of pretrial hearings or the filing of pretrial motions relating to the matters covered hereby and does not in any way affect the right of the State, upon good cause shown, to file a motion seeking to modify this order in an appropriate case, or the right of the Defendant to file such other motions regarding pretrial discovery and/or production as necessary and advisable on matters not covered by this Order. It is the obligation of the defendant, counsel for the defendant and counsel for the State to avoid filing motions that duplicate, track or cover, directly or indirectly, only of the provisions of this order. Any such motions shall be overruled in their entirety without hearing.

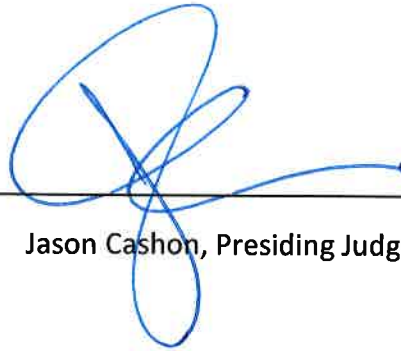
DEFENDANT AND COUNSEL FOR THE DEFENDANT SHOULD NOTE THAT THIS STANDARD DISCOVERY ORDER DOES NOT CHANGE OR AFFECT THE NECESSITY TO TIMELY FILE ON BEHALF OF THE DEFENDANT THE

- 1) ELECTION FOR JURY PUNISHMENT;
- 2) APPLICATION FOR PROBATION;
- 3) ANYTHING ELSE NOT SPECIFICALLY ADDRESSED BY THIS ORDER;
- 4) MOTION FOR INTERPRETER.

THE PROSECUTORS AND DEFENSE ATTORNEY ARE NOTIFIED AND CAUTIONED THAT IN THIS COURT THEY ARE EXPECTED TO OBSERVE THE TERMS OF THE TEXAS LAWYERS CREED.

The Order is effective February 1, 2020, and shall remain in full force and effect until altered, modified, or rescinded by the Court.

SIGNED this 1st day of February, 2020.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right, positioned above a solid black horizontal line.

Jason Cashon, Presiding Judge

Vernon's Texas Statutes and Codes Annotated Code of Criminal Procedure (Refs & Annos) Title 1. Code of Criminal Procedure Trial and Its Incidents Chapter Thirty-Nine. Depositions and Discovery (Refs & Annos)

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

Art. 39.14. Discovery

Effective: September 1, 2017

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 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.

(h-1) In this subsection, "correctional facility" has the meaning assigned by Section 1.07, Penal Code. Notwithstanding any other provision of this article, if the state intends to use at a defendant's trial testimony of a person to whom the defendant made a statement against the defendant's interest while the person was imprisoned or confined in the same correctional facility as the defendant, the state shall disclose to the defendant any information in the possession, custody, or control of the state that is relevant to the person's credibility, including:

(1) the person's complete criminal history, including any charges that were dismissed or reduced as part of a plea bargain;

(2) any grant, promise, or offer of immunity from prosecution, reduction of sentence, or other leniency or special treatment, given by the state in exchange for the person's testimony; and

(3) information concerning other criminal cases in which the person has testified, or offered to testify, against a defendant with whom the person was imprisoned or confined, including any grant, promise, or offer as described by Subdivision (2) given by the state in exchange for the testimony.

(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.¹

(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 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; Acts 2017, 85th Leg., ch. 686 (H.B. 34), § 7, eff. Sept. 1, 2017.

Footnotes

¹ V.T.C.A., Government Code § 552.261 et seq.

Vernon's Ann. Texas C. C. P. Art. 39.14, TX CRIM PRO Art. 39.14

Current through the end of the 2019 Regular Session of the 86th Legislature