

**As Adopted by the Senate**

**128th General Assembly  
Regular Session  
2009-2010**

**S. C. R. No. 12**

**Senator Grendell**

**Cosponsors: Senators Fedor, Gibbs, Gillmor, Harris, Miller, D., Niehaus,  
Sawyer, Schuring, Smith, Miller, R., Hughes, Turner, Schiavoni, Strahorn,  
Morano, Stewart**

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**CONCURRENT RESOLUTION**

To request the Supreme Court to amend the Ohio Rules 1  
of Criminal Procedure to provide for open 2  
discovery. 3

**BE IT RESOLVED BY THE SENATE OF THE STATE OF OHIO (THE HOUSE OF  
REPRESENTATIVES CONCURRING):**

WHEREAS, Rule 16 of the Ohio Rules of Criminal Procedure 4  
requires the prosecuting attorney to disclose specified types of 5  
information, such as prior written statements made by the 6  
defendant and documents that are "material to the preparation of 7  
[a] defense," and "all evidence, known or which may become known 8  
to the prosecuting attorney, favorable to the defendant and 9  
material either to guilt or punishment"; and 10

WHEREAS, Rule 16 requires the prosecuting attorney to 11  
disclose the results of medical and scientific reports and other 12  
types of information only upon motion of the defendant and order 13  
of the court; and 14

WHEREAS, Determinations as to the materiality of evidence, 15  
the exculpatory nature of evidence, and similar matters are 16  
difficult questions upon which the prosecuting and defense 17

attorneys may reasonably disagree and therefore should neither be 18  
left to the decision of the prosecuting attorney nor become the 19  
subjects of costly and time-consuming motions; and 20

WHEREAS, Defense attorneys often need to make additional 21  
discovery motions, adding to the burdens borne by both counsel and 22  
the court; and 23

WHEREAS, A rule requiring the prosecuting attorney, upon 24  
request of the defense attorney, to disclose all police reports, 25  
witness statements, and other relevant evidence, would promote the 26  
fair and expeditious administration of justice and reduce the 27  
strain on the judiciary; now therefore be it 28

RESOLVED, That the General Assembly respectfully requests the 29  
Supreme Court to amend the Ohio Rules of Criminal Procedure to 30  
provide for open discovery in all criminal cases in all courts in 31  
this state, subject only to the court's power, upon motion of the 32  
prosecuting attorney and, if appropriate, an in camera hearing, to 33  
limit discovery in order to protect a witness or for other good 34  
cause as determined by the court. 35