

As Reported by the Senate Judiciary--Criminal Justice Committee

128th General Assembly

Regular Session

2009-2010

S. C. R. No. 12

Senator Grendell

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