

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Section 115-21 as follows:

6 (725 ILCS 5/115-21 new)

7 Sec. 115-21. Duty to disclose evidence helpful to the  
8 defense.

9 (a) In a criminal case, the State shall make timely  
10 disclosure to defense counsel, or to the defendant if the  
11 defendant is not represented by counsel, of the existence of  
12 evidence, known to the State, that is material and tends to  
13 negate the guilt of the accused, impeach witnesses whom the  
14 State will be calling as witnesses, or mitigate the degree of  
15 punishment.

16 (b) Upon motion of the defendant or upon its own motion,  
17 if the court determines that the State knowingly failed to  
18 comply with subsection (a), the court may grant the defendant  
19 a new trial or, if the failure to disclose the evidence to  
20 the defendant relates only to an issue relevant to  
21 sentencing, the court shall vacate the sentence, conduct  
22 another sentencing hearing under Section 5-4-1 of the Unified  
23 Code of Corrections, and resentence the defendant.

24 (c) If the court determines that the State unknowingly  
25 failed to comply with subsection (a), unless the State can  
26 establish, by clear and convincing evidence, that the outcome  
27 of the proceeding at issue would have been identical had the  
28 withheld information been disclosed, the court shall grant  
29 the defendant a new trial or, if the failure to disclose the  
30 evidence to the defendant relates only to an issue relevant  
31 to sentencing, the court shall vacate the sentence, conduct

1 another sentencing hearing under Section 5-4-1 of the Unified  
2 Code of Corrections, and resentence the defendant.

3 (d) This Section applies to all actions initiated on or  
4 after January 1, 2002.

5 Section 99. Effective date. This Act takes effect  
6 January 1, 2002.