

1-1 By: Carona S.B. No. 560
1-2 (In the Senate - Filed February 16, 2005; February 28, 2005,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 11, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 11, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 560 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to court orders for discovery in a criminal case.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Article 39.14, Code of Criminal Procedure, is
1-13 amended by amending Subsection (a) and adding Subsection (a-1) to
1-14 read as follows:

1-15 (a) Upon motion of the defendant [~~showing good cause~~
1-16 ~~therefor and upon notice to the other parties~~], the court in which
1-17 an action is pending shall [~~may~~] order the State [~~before or during~~
1-18 ~~trial of a criminal action therein pending or on trial~~] to produce
1-19 and permit the inspection and reproduction [~~copying~~] or
1-20 photographing by or on behalf of the defendant of any designated
1-21 documents, papers, written statement of the defendant, written or
1-22 recorded statement of any person whom the State intends to call as a
1-23 witness at trial, (~~except written statements of witnesses and~~
1-24 ~~except the work product of counsel in the case and their~~
1-25 investigators and their notes or report), books, accounts, letters,
1-26 photographs, objects or tangible things not privileged, which
1-27 constitute or contain evidence material to any matter involved in
1-28 the action and which are in the possession, custody or control of
1-29 the State or any of its agencies. The order shall specify the time,
1-30 place, and manner of making the inspection and reproducing or
1-31 taking [~~the copies and~~] photographs of any of the aforementioned
1-32 documents or tangible evidence; provided, however, that the rights
1-33 herein granted shall not extend to written communications between
1-34 the State or any of its agents or representatives or employees.
1-35 Nothing in this Act shall authorize the removal of such evidence
1-36 from the possession of the State, and any inspection shall be in the
1-37 presence of a representative of the State. The court shall require
1-38 the State to comply with this subsection not later than the 60th day
1-39 before the date the trial begins or as soon as practicable after the
1-40 defendant makes the motion.

1-41 (a-1) Upon motion of the State, the court in which an action
1-42 is pending shall order the defendant to produce and permit the
1-43 inspection and reproduction or photographing of a list of tangible
1-44 objects and photographs the defendant intends to use at trial, and
1-45 the written or recorded statement of any person other than the
1-46 defendant, including a witness described by Subsection (b), whom
1-47 the defendant intends to call as a witness at trial (except the work
1-48 product of counsel in the case and their investigators and their
1-49 notes or report). The court shall require the defendant to comply
1-50 with this subsection not later than the 20th day before the date the
1-51 trial begins or as soon as practicable after the State makes the
1-52 motion.

1-53 SECTION 2. The changes in law made by Subsection (A),
1-54 Article 39.14, Code of Criminal Procedure, as amended by this Act,
1-55 and Subsection (a-1), Article 39.14, Code of Criminal Procedure, as
1-56 added by this Act, apply to a motion for discovery filed on or after
1-57 the effective date of this Act. A motion for discovery filed before
1-58 the effective date of this Act is covered by the law in effect on the
1-59 date the motion is filed, and the former law is continued in effect
1-60 for that purpose.

1-61 SECTION 3. This Act takes effect immediately if it receives
1-62 a vote of two-thirds of all the members elected to each house, as
1-63 provided by Section 39, Article III, Texas Constitution. If this

2-1 Act does not receive the vote necessary for immediate effect, this
2-2 Act takes effect September 1, 2005.

2-3 * * * * *