

STATE OF NEW YORK

7270

IN SENATE

January 15, 2020

Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to extending the discovery timeline from fifteen to forty-five days

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 1 of section 245.10 of the
2 criminal procedure law, as added by section 2 of part LLL of chapter 59
3 of the laws of 2019, is amended to read as follows:

4 (a) The prosecution shall perform its initial discovery obligations
5 under subdivision one of section 245.20 of this article as soon as prac-
6 ticable but not later than [~~fifteen~~ forty-five calendar days after the
7 defendant's arraignment on an indictment, superior court information,
8 prosecutor's information, information, simplified information, misdemea-
9 nor complaint or felony complaint. Portions of materials claimed to be
10 non-discoverable may be withheld pending a determination and ruling of
11 the court under section 245.70 of this article; but the defendant shall
12 be notified in writing that information has not been disclosed under a
13 particular subdivision of such section, and the discoverable portions of
14 such materials shall be disclosed to the extent practicable. When the
15 discoverable materials are exceptionally voluminous or, despite dili-
16 gent, good faith efforts, are otherwise not in the actual possession of
17 the prosecution, the time period in this paragraph may be stayed by up
18 to an additional thirty calendar days without need for a motion pursuant
19 to subdivision two of section 245.70 of this article.

20 § 2. Paragraphs (g) and (s) of subdivision 1 of section 245.20 of the
21 criminal procedure law, as added by section 2 of part LLL of chapter 59
22 of the laws of 2019, are amended to read as follows:

23 (g) All tapes or other electronic recordings, including all electronic
24 recordings of 911 telephone calls made or received in connection with
25 the alleged criminal incident, and a designation by the prosecutor as to
26 which of the recordings under this paragraph the prosecution intends to
27 introduce at trial or a pre-trial hearing. If the discoverable materials
28 under this paragraph exceed ten hours in total length, the prosecution

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 may disclose only the recordings that it intends to introduce at trial
2 or a pre-trial hearing, along with a list of the source and approximate
3 quantity of other recordings and their general subject matter if known,
4 and the defendant shall have the right upon request to obtain recordings
5 not previously disclosed. The prosecution shall disclose the requested
6 materials as soon as practicable and not less than [~~fifteen~~] forty-five
7 calendar days after the defendant's request, unless an order is obtained
8 pursuant to section 245.70 of this article.

9 (s) In any prosecution alleging a violation of the vehicle and traffic
10 law, where the defendant is charged by indictment, superior court infor-
11 mation, prosecutor's information, information, or simplified informa-
12 tion, all records of calibration, certification, inspection, repair or
13 maintenance of machines and instruments utilized to perform any scien-
14 tific tests and experiments, including but not limited to any test of a
15 person's breath, blood, urine or saliva, for the period of six months
16 prior and six months after such test was conducted, including the
17 records of gas chromatography related to the certification of all refer-
18 ence standards and the certification certificate, if any, held by the
19 operator of the machine or instrument. The time period required by
20 subdivision one of section 245.10 of this article shall not apply to the
21 disclosure of records created six months after a test was conducted, but
22 such disclosure shall be made as soon as practicable and in any event,
23 the earlier of [~~fifteen~~] forty-five days following receipt, or fifteen
24 days before the first scheduled trial date.

25 § 3. This act shall take effect on the same date and in the same
26 manner as section 2 of part LLL of chapter 59 of the laws of 2019 takes
27 effect.