

STATE OF NEW YORK

7609

IN SENATE

January 29, 2020

Introduced by Sen. BROOKS -- 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 the timing of discovery

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 and two new paragraphs (d) and (e) are
4 added to read as follows:

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

21 (d) In the event the production of discovery would otherwise conflict
22 or otherwise violate paragraph (c) or (d) of subdivision one of section
23 30.30 of this chapter, such time frames within such section 30.30 would
24 be extended in the case of paragraph (c) of subdivision one of section
25 30.30 of this chapter, an additional thirty days, and in the case of
26 paragraph (d) of subdivision one of section 30.30 of this chapter, an
27 additional sixty days. The prosecution shall be responsible for notify-
28 ing the court of such time extension, and must certify to the court that

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

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1 all discovery has been completed, within the period stated in this para-
2 graph, in order for the extension provisions of this section to apply.

3 (e) In no event shall this section apply to those cities having a
4 population of one million or more. In such instances, the prosecution
5 shall perform its initial discovery obligations under subdivision one of
6 section 245.20 of this article as soon as practicable but not later than
7 fifteen calendar days after the defendant's arraignment on an indict-
8 ment, superior court information, prosecutor's information, information,
9 simplified information, misdemeanor complaint or felony complaint.
10 Portions of materials claimed to be non-discoverable may be withheld
11 pending a determination and ruling of the court under section 245.70 of
12 this article; but the defendant shall be notified in writing that infor-
13 mation has not been disclosed under a particular subdivision of such
14 section, and the discoverable portions of such materials shall be
15 disclosed to the extent practicable. When the discoverable materials are
16 exceptionally voluminous or, despite diligent, good faith efforts, are
17 otherwise not in the actual possession of the prosecution, the time in
18 this paragraph may be stayed by up to an additional thirty calendar days
19 without need for a motion pursuant to subdivision two of section 245.70
20 of this article.

21 § 2. This act shall take effect immediately.