

STATE OF NEW YORK

9054

IN ASSEMBLY

January 10, 2020

Introduced by M. of A. GRIFFIN -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to extending the time period in which the prosecution shall perform its discovery obligations

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

1 Section 1. Paragraphs (a) and (b) of subdivision 1 of section 245.10
2 of the criminal procedure law, as added by section 2 of part LLL of
3 chapter 59 of the laws of 2019, are 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~~] ninety 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 (b) The prosecution shall perform its supplemental discovery obli-
21 gations under subdivision three of section 245.20 of this article as
22 soon as practicable but not later than [~~fifteen~~] ninety calendar days
23 prior to the first scheduled trial date.

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

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

LBD14642-02-0

1 (g) All tapes or other electronic recordings, including all electronic
2 recordings of 911 telephone calls made or received in connection with
3 the alleged criminal incident, and a designation by the prosecutor as to
4 which of the recordings under this paragraph the prosecution intends to
5 introduce at trial or a pre-trial hearing. If the discoverable materials
6 under this paragraph exceed ten hours in total length, the prosecution
7 may disclose only the recordings that it intends to introduce at trial
8 or a pre-trial hearing, along with a list of the source and approximate
9 quantity of other recordings and their general subject matter if known,
10 and the defendant shall have the right upon request to obtain recordings
11 not previously disclosed. The prosecution shall disclose the requested
12 materials as soon as practicable and not less than [~~fifteen~~] **ninety**
13 calendar days after the defendant's request, unless an order is obtained
14 pursuant to section 245.70 of this article.

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

31 § 3. This act shall take effect immediately.