

# STATE OF NEW YORK

3314--A

2021-2022 Regular Sessions

## IN SENATE

January 28, 2021

Introduced by Sens. BAILEY, BENJAMIN, COMRIE, HOYLMAN, PARKER, SEPULVEDA  
-- read twice and ordered printed, and when printed to be committed to  
the Committee on Codes -- committee discharged, bill amended, ordered  
reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to grand jury  
proceedings

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

1 Section 1. Paragraph (d) of subdivision 3 of section 190.25 of the  
2 criminal procedure law is amended and a new paragraph (a-1) is added to  
3 read as follows:

4 (a-1) A judge or justice of the superior court;

5 (d) An interpreter. Upon request of the grand jury or the court, the  
6 prosecutor must provide an interpreter to interpret the testimony of any  
7 witness who does not speak the English language well enough to be readi-  
8 ly understood. Such interpreter must, if he or she has not previously  
9 taken the constitutional oath of office, first take an oath before the  
10 grand jury that he or she will faithfully interpret the testimony of the  
11 witness and that he or she will keep secret all matters before such  
12 grand jury within his or her knowledge;

13 § 2. Subdivision 4 of section 190.25 of the criminal procedure law is  
14 amended by adding seven new paragraphs (c), (d), (e), (f), (g), (h) and  
15 (i) to read as follows:

16 (c) In addition to paragraphs (a) and (b) of this subdivision, when,  
17 following submission to a grand jury of a criminal charge or charges,  
18 the grand jury dismisses all charges presented or directs the district  
19 attorney to file in a local criminal court a prosecutor's information  
20 charging an offense other than a felony, as provided in subdivision one  
21 of section 190.70 of this article, an application may be made to the  
22 superior court for disclosure of the following material relating to the  
23 proceedings before such grand jury:

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

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1     (i) the criminal charge or charges submitted;  
2     (ii) the legal instructions provided to the grand jury;  
3     (iii) the testimony of all public servants who testified in an offi-  
4     cial capacity before the grand jury and of all persons who provided  
5     expert testimony; and

6     (iv) the testimony of all other persons who testified before the grand  
7     jury, redacted as necessary to prevent discovery of their names and such  
8     other personal data or information that may reveal or help to reveal  
9     their identities.

10    (d) The application specified in paragraph (c) of this subdivision may  
11    be made by any person, must be in writing and, except where made by the  
12    people, must be upon notice to the people. The court shall direct or  
13    provide notice to any other appropriate person or agency. Where more  
14    than one application is made hereunder in relation to such a dismissal  
15    or direction, the court may consolidate such applications and determine  
16    them together. When no application hereunder is made, the superior court  
17    may order disclosure on its own motion as provided in paragraph (e) of  
18    this subdivision at any time following notice to the people and an  
19    opportunity to be heard and reasonable efforts to notify and provide an  
20    opportunity to be heard to any other appropriate person or agency.

21    (e) Upon an application as provided in paragraph (c) of this subdivi-  
22    sion or on the court's own motion, the court, after providing persons  
23    given notice an opportunity to be heard, shall determine whether:

24    (i) a significant number of members of the general public in the coun-  
25    ty in which the grand jury was drawn and impaneled are likely aware that  
26    a criminal investigation had been conducted in connection with the  
27    subject matter of the grand jury proceeding; and

28    (ii) a significant number of members of the general public in such  
29    county are likely aware of the identity of the subject against whom the  
30    criminal charge specified in paragraph (c) of this subdivision was  
31    submitted to a grand jury, or such subject has consented to such disclo-  
32    sure; and

33    (iii) there is significant public interest in disclosure.

34    Where the court is satisfied that all three of these factors are pres-  
35    ent, and except as provided in paragraph (f) of this subdivision, the  
36    court shall direct the district attorney to promptly disclose the items  
37    specified in paragraph (c) of this subdivision.

38    (f) Notwithstanding any other provisions of this subdivision, on  
39    application of the district attorney or any interested person, or on its  
40    own motion, the court shall limit disclosure of the items specified in  
41    paragraph (c) of this subdivision, in whole or part, where the court  
42    determines there is a reasonable likelihood that such disclosure may  
43    lead to discovery of the identity of a witness who is not a public serv-  
44    ant or expert witness, imperil the health or safety of a grand juror who  
45    participated in the proceeding or a witness who appeared before the  
46    grand jury, jeopardize an identified current or future criminal investi-  
47    gation, create a specific threat to public safety, or despite the inter-  
48    ests reflected by this subdivision is contrary to the interests of  
49    justice.

50    (g) Where a court determines not to direct disclosure, in whole or in  
51    part, pursuant to this subdivision, it shall do so promptly in a written  
52    order that shall explain with specificity, to the extent practicable,  
53    the basis for its determination.

54    (h) Where an application pursuant to paragraph (c) of this subdivision  
55    has been denied, in whole or in part, the applicant may appeal as of  
56    right from such order to the appellate division in the department in

1 which such order was entered, in accordance with article four hundred  
2 sixty of this chapter.

3 (i) Nothing in this paragraph or paragraph (c), (d), (e), (f), (g) or  
4 (h) of this subdivision shall be interpreted as limiting or restricting  
5 any broader right of access to grand jury materials under any other law,  
6 common law or court precedent.

7 § 3. This act shall take effect on the thirtieth day after it shall  
8 have become a law.