STATE OF NEW YORK

4949

2021-2022 Regular Sessions

IN ASSEMBLY

February 9, 2021

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

AN ACT to amend the criminal procedure law, in relation to ensuring privacy protections for all emergency personnel present at a crime scene

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

Section 1. Paragraph (c) of subdivision 1 of section 245.20 of the criminal procedure law, as amended by section 2 of part HHH of chapter 56 of the laws of 2020, is amended to read as follows:

(c) The names and adequate contact information for all persons other than law enforcement personnel*, ambulance services or advanced life support first response services, certified first responders, firefighters, emergency medical technicians or advanced emergency medical technicians, who are employed by or enrolled members of any such service,* whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Nothing in this paragraph shall require the disclosure of physical addresses; provided, however, upon a motion and good cause shown the court may direct the disclosure of a physical address. Information under this subdivision relating to the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or section 230.34 or 230.34-a of the penal law, any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law, or a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.

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

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§ 2. Subdivision 4 of section 245.70 of the criminal procedure law, as added by section 2 of part LLL of chapter 59 of the laws of 2019, is amended to read as follows:

4. Showing of good cause. In determining good cause under this section the court may consider: constitutional rights or limitations; danger to the integrity of physical evidence or the safety of a witness; risk of intimidation, economic reprisal, bribery, harassment or unjustified annoyance or embarrassment to any person, and the nature, severity and likelihood of that risk; a risk of an adverse effect upon the legitimate needs of law enforcement, **ambulance services or advanced life support first response services, certified first responders, firefighters, emergency medical technicians or advanced emergency medical technicians, who are employed by or enrolled members of any such service,** including the protection of the confidentiality of informants, and the nature, severity and likelihood of that risk; the nature and circumstances of the factual allegations in the case; whether the defendant has a history of witness intimidation or tampering and the nature of that history; the nature of the stated reasons in support of a protective order; the nature of the witness identifying information that is sought to be addressed by a protective order, including the option of employing adequate alternative contact information; danger to any person stemming from factors such as a defendant's substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law; and other similar factors found to outweigh the usefulness of the discovery.

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