STATE OF NEW YORK

1018

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sen. COONEY -- 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 certain discovery

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

Section 1. Clause (A) of subparagraph (iv) of paragraph (a) of subdivision 1 of section 245.10 of the criminal procedure law, as amended by section 1 of part HHH of chapter 56 of the laws of 2020, is amended to read as follows:

(A) Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. Information related to or evidencing the identity of a 911 caller, the victim or witness of **any felony defined under article one hundred twenty-five of the penal law or** an offense defined under article one hundred thirty or sections 230.34 and 230.34-a of the penal law, or 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 may be withheld, provided, however, the defendant may move the court for disclosure.

§ 2. 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 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

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

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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 **any felony defined under article one hundred twenty-five of the penal law or** 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.

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