

STATE OF NEW YORK

678

2023-2024 Regular Sessions

IN SENATE

January 5, 2023

Introduced by Sens. TEDISCO, BORRELLO, GALLIVAN, GRIFFO, HELMING, MATT-
ERA, O'MARA, ORTT, STEC -- 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 ensuring
privacy protections for all emergency personnel present at a crime
scene

The People of the State of New York, represented in Senate and Assem-
bly, 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
59 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, firefight-
ers, emergency medical technicians or advanced emergency medical techni-
cians, 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 desig-
nation 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. Infor-
mation 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 pursu-
ant to section 245.70 of this article; but the prosecution shall notify

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

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1 the defendant in writing that such information has not been disclosed,
2 unless the court rules otherwise for good cause shown.

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

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

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