

# STATE OF NEW YORK

8526

## IN SENATE

February 8, 2024

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT in relation to requiring the state to enter into an agreement with the Rand Corporation to conduct a study of the impact the 2020 Discovery Reform legislation enacted by part HHH of chapter 56 of the laws of 2020 has had on the handling and disposition of criminal cases; and making an appropriation therefor

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

1 Section 1. The state shall contract with the Rand Corporation, a  
2 research organization that develops solutions to public policy chal-  
3 lenges, to conduct a study of the impact the 2020 Discovery Reform  
4 legislation enacted by part HHH of chapter 56 of the laws of 2020 has  
5 had on the handling and disposition of criminal cases prosecuted by the  
6 state of New York.

7 § 2. The analysis to be conducted by the Rand Corporation shall  
8 include an analysis of:

9 a. The impact reduced timelines for discovery have had on the workload  
10 of district attorneys, institutional defense providers, private attor-  
11 neys, assigned counsel and police and non-police investigator workload.

12 b. The impact reduced timelines for discovery have had on the process-  
13 ing, and disposition of criminal offense cases, including whether there  
14 has been a reduction in or other impact on:

15 (i) the number of cases in which an indictment has been handed down;

16 (ii) the number of cases which have been prosecuted at trial and  
17 whether such cases resulted in a conviction, acquittal or mistrial;

18 (iii) the number of cases in which a plea deal was reached between the  
19 prosecution and the defendant;

20 (iv) the number of cases in which the prosecuting entity determined  
21 that there was insufficient evidence to proceed to obtain an indictment;

22 (v) the number of cases in which the prosecuting entity determined  
23 that there was insufficient evidence to proceed to trial; and

24 (vi) the number of cases in which the prosecuting entity elected to  
25 dismiss the case with or without prejudice.

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

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1 c. The impact reduced timelines for discovery have had on staffing  
2 levels in the offices of district attorneys, institutional defense  
3 providers, private attorneys, assigned counsel and police and non-police  
4 investigators, including:

5 (i) whether such reduced deadlines have resulted, directly or indi-  
6 rectly, to an increase in staff resignations or retirements;

7 (ii) whether such reduced deadlines have resulted, directly or indi-  
8 rectly, in decreased recruitment of staff;

9 (iii) whether such reduced deadlines have resulted, directly or indi-  
10 rectly, in a need for additional police and non-police investigators to  
11 collect evidence; and

12 (iv) whether such reduced deadlines have resulted, directly or indi-  
13 rectly, in a need for additional staff to organize, interpret, analyze  
14 and transfer discovery materials.

15 d. The adequacy of currently utilized technology in the processing of  
16 criminal cases for trial, including but not limited to the speed with  
17 which laboratory results are processed and results are received by the  
18 attorneys involved in the case.

19 e. The impact reduced timelines for discovery have had on identifying  
20 and obtaining expert witnesses.

21 f. The impact reduced timelines for discovery have had on the ability  
22 of prosecutors to provide discoverable materials to defense counsel.

23 g. The impact reduced timelines for discovery have had on other obli-  
24 gations of district attorneys, institutional defense providers, private  
25 attorneys and assigned counsel, including, but not limited to the  
26 production of discovery to incarcerated individuals or individuals  
27 representing themselves.

28 § 3. a. The study to be conducted by the Rand Corporation shall  
29 include conclusions as to the efficacy of the reduced timeline for  
30 discovery on the processing of criminal cases and recommendations  
31 regarding increased efficiency in case processing.

32 b. To the extent feasible, the study shall address and estimate:

33 (i) the cost of providing additional staff, expediting investigations  
34 and laboratory results and other costs associated with the expedited  
35 speed in prosecuting cases; and

36 (ii) the cost and estimated timeline for development of statewide  
37 technological infrastructure to meet the modern demands of the criminal  
38 justice system.

39 § 4. For purposes of this act, "staff" includes attorneys, paralegals,  
40 police, non-police investigators and other personnel necessary for the  
41 investigation and processing of criminal cases by the state of New York.

42 § 5. The sum of two million dollars (\$2,000,000), is hereby appropri-  
43 ated to the department of audit and control out of any moneys in the  
44 state treasury in the general fund to the credit of the state purposes  
45 account after audit by and on the warrant of the state comptroller upon  
46 vouchers certified or approved by the attorney general.

47 § 6. This act shall take effect immediately.