§ 250.40 Notice of intent to seek death penalty.

1. A sentence of death may not be imposed upon a defendant convicted of murder in the first degree unless, pursuant to subdivision two of this section, the people file with the court and serve upon the defendant a notice of intent to seek the death penalty.

2. In any prosecution in which the people seek a sentence of death, the people shall, within one hundred twenty days of the defendant's arraignment upon an indictment charging the defendant with murder in the first degree, serve upon the defendant and file with the court in which the indictment is pending a written notice of intention to seek the death penalty. For good cause shown the court may extend the period for service and filing of the notice.

3. Notwithstanding any other provisions of law, where the people file a notice of intent to seek the death penalty pursuant to this section the defendant shall be entitled to an additional sixty days for the purpose of filing new motions or supplementing pending motions.

4. A notice of intent to seek the death penalty may be withdrawn at any time by a written notice of withdrawal filed with the court and served upon the defendant. Once withdrawn the notice of intent to seek the death penalty may not be refiled.