S T A T E O F N E W Y O R K

5263

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

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

AN ACT to amend the criminal procedure law, in relation to authorizing child witnesses to testify by use of closed-circuit television in assault and endangering the welfare of a child proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 65.00 of the criminal procedure law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

1. "Child witness" means a person fourteen years old or less who is or will be called to testify in a criminal proceeding, other than a grand jury proceeding, concerning an offense defined in ARTICLE ONE HUNDRED TWENTY, article one hundred thirty [of the penal law or], section 255.25, 255.26 [or], 255.27 OR 260.10 of [such] THE PENAL law which is the subject of such criminal proceeding.

S 2. Subdivision 7 of section 65.20 of the criminal procedure law, as amended by chapter 320 of the laws of 2006 and as renumbered by chapter 548 of the laws of 2007, is amended to read as follows:

7. Notwithstanding any other provision of law, the child witness who is alleged to be vulnerable may not be compelled to testify at such hearing or to submit to any psychological or psychiatric examination. The failure of the child witness to testify at such hearing shall not be a ground for denying a motion made pursuant to subdivision one of this section. Prior statements made by the child witness relating to any allegations of conduct constituting an offense defined in article ONE HUNDRED TWENTY OR one hundred thirty of the penal law [or], incest as defined in section 255.25, 255.26 or 255.27, OR ENDANGERING THE WELFARE OF A CHILD AS DEFINED IN SECTION 260.10 of such law, or to any allegation of words or conduct constituting an attempt to prevent, impede or deter the child witness from cooperating in the investigation or prose-

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

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cution of the offense shall be admissible at such hearing, provided, however, that a declaration that a child witness is vulnerable may not be based solely upon such prior statements.

S 3. This act shall take effect immediately and shall apply to criminal proceedings conducted on or after such date; provided, however, that the amendments to sections 65.00 and 65.20 of the criminal procedure law, made by sections one and two of this act, shall not affect the repeal of such sections and shall be deemed repealed therewith.