

STATE OF NEW YORK

5700

2019-2020 Regular Sessions

IN ASSEMBLY

February 14, 2019

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

AN ACT to amend the criminal procedure law and the civil practice law and rules, in relation to admission of evidence of proof of similar sex offenses in criminal and civil proceedings involving the commission of a sex offense

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

1 Section 1. The criminal procedure law is amended by adding a new
2 section 60.41 to read as follows:

3 § 60.41 Rules of evidence; proof of similar offenses in sex offense
4 cases.

5 1. In a criminal proceeding in which the defendant is accused of a sex
6 offense, evidence that the defendant was convicted of another sex
7 offense or offenses is admissible, and may be considered for its bearing
8 on any matter to which it is relevant.

9 2. In a case in which the prosecution intends to offer evidence pursu-
10 ant to this section, the prosecutor shall disclose the evidence to the
11 defendant, including statements of witnesses or a summary of the
12 substance of any testimony that is expected to be offered, at least
13 fifteen days before the scheduled date of trial or at such later time as
14 the court may allow for good cause.

15 3. This section shall not be construed to limit the admission or
16 consideration of evidence under any other provision of law.

17 4. For purposes of this section, "sex offense" means a crime under
18 federal law or the law of a state that involved:

19 (a) any conduct proscribed by article one hundred thirty of the penal
20 law;

21 (b) contact, without consent, between any part of the defendant's body
22 or an object and the genitals or anus of another person;

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

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1 (c) contact, without consent, between the genitals or anus of the
2 defendant and any part of another person's body;

3 (d) deriving sexual pleasure or gratification from the infliction of
4 death, bodily injury, or physical pain on another person; or

5 (e) an attempt or conspiracy to engage in conduct described in para-
6 graphs (a) through (d) of this subdivision.

7 § 2. The civil practice law and rules is amended by adding a new
8 section 4549 to read as follows:

9 § 4549. Proof of similar offenses in civil cases concerning sex
10 offenses and child molestation. 1. In any action for damages or other
11 relief predicated on a party's alleged commission of conduct constitut-
12 ing a sex offense or child molestation, evidence of that party's commis-
13 sion of another sex offense or child molestation shall be admissible
14 for consideration by the court.

15 2. A party who intends to offer evidence under this section shall
16 disclose the evidence to the party against whom it will be offered,
17 including statements of witnesses or a summary of the substance of any
18 testimony that is expected to be offered, at least fifteen days before
19 the scheduled date of trial or at such later time as the court may allow
20 for good cause.

21 3. This section shall not be construed to limit the admission or
22 consideration of evidence under any other provision of law.

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