

STATE OF NEW YORK

9045--A

IN ASSEMBLY

January 31, 2022

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to permitting certain testimony and evidence by a person alleging discrimination

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

1 Section 1. The civil practice law and rules is amended by adding a
2 new rule 4550 to read as follows:

3 Rule 4550. Admissibility of allegations of discrimination; hearsay
4 exception. (a) When used in this rule, "discrimination" shall mean any
5 unlawful discriminatory practice pursuant to article fifteen of the
6 executive law, including unlawful discriminatory practices based on
7 race, creed, color, national origin, sexual orientation, gender identity
8 or expression, military status, age, sex, marital status, childbearing
9 potential, disability, or familial status.

10 (b) In a civil action, at the trial or upon the hearing of a motion or
11 an interlocutory proceeding, evidence that a party alleging discrimi-
12 nation, including but not limited to sexual harassment and/or miscon-
13 duct, reported such discrimination or facts giving rise to an inference
14 of such discrimination to another person, including evidence concerning
15 the contents of such report or statement of facts, may be admitted as an
16 exception to the inadmissibility of hearsay to support the allegation
17 that discrimination occurred.

18 (c) For evidence of a report or statement to be admissible under this
19 rule, such report or statement must have been made before the last
20 adverse action complained of is taken, or promptly after such action is
21 taken. Promptness shall be determined by all facts and circumstances,
22 giving due regard to the sensitivity of the subject matter, the mental
23 state of the party alleging discrimination, or any other relevant infor-
24 mation.

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

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1 (d) The proponent of such evidence has the burden of demonstrating
2 that the reporting was made under circumstances which render it reason-
3 ably reliable.

4 (e) This rule is only applicable in civil matters and shall not apply
5 in criminal proceedings.

6 § 2. This act shall take effect immediately.