STATE OF NEW YORK

10559

IN ASSEMBLY

June 3, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Santabarbara) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the executive law, in relation to enacting the "child survivor privacy act"

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

Section 1. This act shall be known and may be cited as the "child survivor privacy act".

§ 2. The criminal procedure law is amended by adding a new article 66 to read as follows:

ARTICLE 66
PROTECTIONS FOR CHILD VICTIMS AND CHILD WITNESSES

Section 66.00 Protections for child victims and child witnesses.

§ 66.00 Protections for child victims and child witnesses.

1. The records of any proceeding in the criminal court involving a child victim and/or child witness shall not be open to indiscriminate public inspection. Provided, however, the court in its discretion in any case may permit the inspection of any papers or records. Any duly authorized agency, association, society or institution to which a child is committed may cause an inspection of the record of investigation to be had and may in the discretion of the court obtain a copy of the whole or part of such record.

2. Any criminal proceeding where the victim is a child shall be a closed proceeding upon request made by the child victim and/or such child victim's parent, guardian, or advocate. For purposes of this section, "closed proceeding" means that court records may not be perused, examined, disclosed, taken or copied by any other person than a party, the attorney or counsel of a party, the guardian, the court evaluator or the court examiner except by order of the court.

3. The identity of the child victim shall be made anonymous throughout the proceeding unless a request is made to identify the child victim. Such request may be made by the child victim, and/or such child victim's parent, guardian, or advocate.

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

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4. No audio-visual coverage shall be permitted in a criminal proceeding in which there is a child victim of a crime, or the child victim is a child witness as such term is defined in section 65.00 of this title, or vulnerable as such term is defined in section 65.10 of the this title.

§ 3. 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 thirty of the penal law or section 255.25, 255.26 or 255.27 of such law which is the subject of such criminal proceeding**, or a person eighteen years of age or less who is the victim of any crime and who is or will be called to testify in a criminal proceeding**.

§ 4. Section 642-a of the executive law, as added by chapter 263 of the laws of 1986, the section heading and subdivision 1 as amended by chapter 574 of the laws of 2008, is amended to read as follows:

§ 642-a. Fair treatment of child victims as witnesses. To the extent permitted by law, criminal justice agencies, crime victim-related agencies, social services agencies and the courts shall comply with the following guidelines in their treatment of child victims:

1. **(a)** To minimize the number of times a child victim is called upon to recite the events of the case and to foster a feeling of trust and confidence in the child victim, whenever practicable and where one exists, a multi-disciplinary team as established pursuant to subdivision six of section four hundred twenty-three of the social services law and/or a child advocacy center shall be used for the investigation and prosecution of child abuse cases involving abuse of a child, as described in paragraph (i), (ii) or (iii) of subdivision (e) of section one thousand twelve of the family court act, sexual abuse of a child or the death of a child**, or where the child is the victim of or witness to any crime**.

(b) When it is not practicable for a multi-disciplinary team as established pursuant to subdivision six of section four hundred twenty-three of the social services law and/or a child advocacy center to be used, the child victim and/or such child victim's family or guardian shall be provided with informational materials on local resources for counseling, advocacy, and social services.

2. Whenever practicable, the same prosecutor should handle all aspects of a case involving an alleged child victim. **Whenever practicable, the same prosecutor, advocate, and/or social worker shall handle all aspects of a case involving an alleged child victim. Whenever practicable, the prosecutor, advocate, and/or social worker shall collaborate with one another to minimize the child victim's stress of recounting events of the case during interviews and throughout the course of the proceeding.**

3. To minimize the time during which a child victim must endure the stress of [~~his~~] **such child victim's** involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. In ruling on any motion or request for a delay or continuance of a proceeding involving an alleged child victim, the court [~~should~~] **shall** consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child.

4. The judge presiding [~~should~~] **shall** be sensitive to the psychological and emotional stress a child witness may undergo when testifying.

5. In accordance with the provisions of article sixty-five of the criminal procedure law, when appropriate, a child witness as defined in subdivision one of section 65.00 of such law [~~should~~] shall be permitted to testify via live, two-way closed-circuit television.

6. In accordance with the provisions of section 190.32 of the criminal procedure law, a person supportive of the "child witness" or "special witness" as defined in such section [~~should~~] shall be permitted to be present and accessible to a child witness at all times during [~~his~~] such child witness's testimony, although the person supportive of the child witness [~~should~~] shall not be permitted to influence the child's testimony.

7. A child witness should be permitted in the discretion of the court to use anatomically correct dolls and drawings during [~~his~~] such child witness's testimony.

§ 5. This act shall take effect immediately; provided, however, the amendments to section 65.00 of the criminal procedure law made by section three of this act shall not affect the repeal of such section and shall be deemed repealed therewith.