

STATE OF NEW YORK

8390

IN SENATE

January 26, 2024

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law and the civil practice law and rules, in relation to the admissibility of evidence created or processed by artificial intelligence

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 60.80 to read as follows:

3 § 60.80 Rules of evidence; admissibility of evidence created or proc-
4 essed by artificial intelligence.

5 1. Evidence created, in whole or in part, by artificial intelligence
6 shall not be received into evidence in a criminal proceeding unless the
7 evidence is substantially supported by independent and admissible
8 evidence and the proponent of the evidence establishes the reliability
9 and accuracy of the specific use of the artificial intelligence in
10 creating the evidence.

11 2. Evidence processed, in whole or in part, by artificial intelligence
12 shall not be received into evidence in a criminal proceeding unless the
13 proponent of the evidence establishes the reliability and accuracy of
14 the specific use of the artificial intelligence in processing the
15 evidence.

16 3. Evidence is created, in whole or in part, by artificial intelli-
17 gence where the artificial intelligence produces new information from
18 existing information not present in or reasonably deducible from the
19 existing information.

20 4. Evidence is processed, in whole or in part, by artificial intelli-
21 gence where the artificial intelligence produces a conclusion based off
22 of its analysis, interpretation, or transformation of existing informa-
23 tion where such conclusion is not reasonably deducible from the existing
24 information.

25 5. Evidence is not reasonably deducible from the existing information
26 where the reliability or accuracy of the information created or conclu-
27 sion drawn from the existing information would be substantially compro-

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

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1 mised without the use of artificial intelligence as a result of the
2 complexity, uncertainty, or subtlety of the information.

3 6. Evidence is substantially supported by independent and admissible
4 evidence where:

5 (a) The independent evidence is separate from, and not derived from,
6 the artificial intelligence that generated the artificially created
7 evidence;

8 (b) The independent evidence is admissible under the existing rules of
9 evidence;

10 (c) The independent evidence bears a close and significant relation-
11 ship to the artificially created evidence in such a manner that it rein-
12 forces or corroborates the information created from the artificially
13 created evidence.

14 7. The reliability and accuracy of the specific use of the artificial
15 intelligence in creating or processing the evidence is sufficient where
16 the proponent of the evidence has a qualified expert testify and such
17 testimony is sufficient to prove that:

18 (a) The specific use of the artificial intelligence has been validated
19 through rigorous scientific or technical testing, demonstrating that it
20 consistently produces accurate and reliable results in varied environ-
21 ments;

22 (b) The artificial intelligence has been subjected to testing or
23 application in environments that are similar or analogous to the specif-
24 ic context in which it is being used in the proceeding and such testing
25 or application produced accurate and reliable results;

26 (c) The artificial intelligence has not been subjected to any vari-
27 ables that, based on scientific or technical testing of the system, have
28 a substantial probability of causing a materially inaccurate or unreli-
29 able result. In assessing the probability, the court shall consider the
30 weight of the artificially created evidence relative to other admitted
31 evidence.

32 8. Where expert testimony would include trade secrets, privileged
33 government information, or information about law enforcement techniques
34 that, if disclosed, would unduly compromise their ability to effectively
35 use their systems for their intended purpose, the court, in its
36 discretion, may impose appropriate measures to protect such information.

37 § 2. The civil practice law and rules is amended by adding a new
38 section 4551 to read as follows:

39 § 4551. Rules of evidence; admissibility of evidence created or proc-
40 essed by artificial intelligence. (a) Evidence created, in whole or in
41 part, by artificial intelligence may not be received into evidence in a
42 civil proceeding unless the evidence is substantially supported by inde-
43 pendent and admissible evidence and the proponent of the evidence estab-
44 lishes the reliability and accuracy of the specific use of the artifi-
45 cial intelligence in creating the evidence.

46 (b) Evidence processed, in whole or in part, by artificial intelli-
47 gence may not be received into evidence in a civil proceeding unless the
48 proponent of the evidence establishes the reliability and accuracy of
49 the specific use of the artificial intelligence in processing the
50 evidence.

51 (c) Evidence is created, in whole or in part, by artificial intelli-
52 gence where the artificial intelligence produces new information from
53 existing information not present in or reasonably deducible from the
54 existing information.

55 (d) Evidence is processed, in whole or in part, by artificial intelli-
56 gence where the artificial intelligence produces a conclusion based off

1 of its analysis, interpretation, or transformation of existing informa-
2 tion where such conclusion is not reasonably deducible from the existing
3 information.

4 (e) Evidence is not reasonably deducible from the existing information
5 where the reliability or accuracy of the information created or conclu-
6 sion drawn from the existing information would be substantially compro-
7 mised without the use of artificial intelligence as a result of the
8 complexity, uncertainty, or subtlety of the information.

9 (f) Evidence is substantially supported by independent and admissible
10 evidence where:

11 1. The independent evidence is separate from, and not derived from,
12 the artificial intelligence that generated the artificially created
13 evidence;

14 2. The independent evidence is admissible under the existing rules of
15 evidence;

16 3. The independent evidence bears a close and significant relationship
17 to the artificially created evidence in such a manner that it reinforces
18 or corroborates the information created from the artificially created
19 evidence.

20 (g) The reliability and accuracy of the specific use of the artificial
21 intelligence in creating or processing the evidence is sufficient where
22 the proponent of the evidence has a qualified expert testify and such
23 testimony is sufficient to prove that:

24 1. The specific use of the artificial intelligence has been validated
25 through rigorous scientific or technical testing, demonstrating that it
26 consistently produces accurate and reliable results in varied environ-
27 ments;

28 2. The artificial intelligence has been subjected to testing or appli-
29 cation in environments that are similar or analogous to the specific
30 context in which it is being used in the proceeding and such testing or
31 application produced accurate and reliable results;

32 3. The artificial intelligence has not been subjected to any variables
33 that, based on scientific or technical testing of the system, have a
34 substantial probability of causing a materially inaccurate or unreliable
35 result. In assessing the probability, the court shall consider the
36 weight of the artificially created evidence relative to other admitted
37 evidence.

38 (h) Where expert testimony would include trade secrets, privileged
39 government information, or information about law enforcement techniques
40 that, if disclosed, would unduly compromise their ability to effectively
41 use their systems for their intended purpose, the court, in its
42 discretion, may impose appropriate measures to protect such information.

43 § 3. This act shall take effect on the first of January next succeed-
44 ing the date on which it shall have become a law.