STATE OF NEW YORK

9445

IN SENATE

May 15, 2024

Introduced by Sens. PALUMBO, CANZONERI-FITZPATRICK, LANZA, MARTINS, O'MARA, RHOADS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to admitting evidence of similar crimes in sexual offense cases

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

Section 1. The criminal procedure law is amended by adding a new section 60.77 to read as follows:

§ 60.77 Rules of evidence; similar crimes in sexual offense cases.

1. In a criminal proceeding in which a defendant is accused of a sexual offense, the court may admit evidence that the defendant committed any other sexual offense in accordance with the federal rules of evidence under 28 USC 413. The evidence may be considered on any matter to which it is relevant to the defendant's motive, intent to commit the crime, the absence of mistake or accident, a common scheme or plan embracing the commission of two or more crimes so related to each other that the proof of one tends to establish the others or the identity of the person charged with the commission of the crime on trial. Upon a determination that such evidence is relevant, the court must then find that its probative value outweighs the prejudicial effect on the defendant.

2. If the prosecutor intends to offer the evidence permitted under this section, the prosecutor must disclose it to the defendant, including witnesses' statements or a summary of the expected testimony. The prosecutor must do so at least fifteen days before trial or at a later time that the court allows for good cause.

3. This section does not limit the admission or consideration of evidence under any other rule.

4. For purposes of this section "sexual offense" means any conduct or attempted conduct committed in any jurisdiction which is prohibited by articles one hundred thirty and two hundred sixty-three and sections 230.34 and 230.34-a of the penal law.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to all cases pending on and after such date.

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

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