

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

6 § 3. Subdivision 1 of section 65.00 of the criminal procedure law, as
7 amended by chapter 320 of the laws of 2006, is amended to read as
8 follows:

9 1. "Child witness" means a person fourteen years old or less who is or
10 will be called to testify in a criminal proceeding, other than a grand
11 jury proceeding, concerning an offense defined in article one hundred
12 thirty of the penal law or section 255.25, 255.26 or 255.27 of such law
13 which is the subject of such criminal proceeding, or a person eighteen
14 years of age or less who is the victim of any crime and who is or will
15 be called to testify in a criminal proceeding.

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

19 § 642-a. Fair treatment of child victims as witnesses. To the extent
20 permitted by law, criminal justice agencies, crime victim-related agen-
21 cies, social services agencies and the courts shall comply with the
22 following guidelines in their treatment of child victims:

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

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

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

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

55 4. The judge presiding [~~should~~] shall be sensitive to the psycholog-
56 ical and emotional stress a child witness may undergo when testifying.

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

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

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

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