

STATE OF NEW YORK

8110

2023-2024 Regular Sessions

IN ASSEMBLY

October 13, 2023

Introduced by M. of A. VANEL -- read once and referred 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.

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

LBD13089-01-3

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

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

8 (a) The independent evidence is separate from, and not derived from,
9 the artificial intelligence that generated the artificially created
10 evidence;

11 (b) The independent evidence is admissible under the existing rules of
12 evidence;

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

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

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

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

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

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

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

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

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

54 (c) Evidence is created, in whole or in part, by artificial intelli-
55 gence where the artificial intelligence produces new information from

1 existing information not present in or reasonably deducible from the
2 existing information.

3 (d) Evidence is processed, in whole or in part, by artificial intelli-
4 gence where the artificial intelligence produces a conclusion based off
5 of its analysis, interpretation, or transformation of existing informa-
6 tion where such conclusion is not reasonably deducible from the existing
7 information.

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

13 (f) Evidence is substantially supported by independent and admissible
14 evidence where:

15 1. The independent evidence is separate from, and not derived from,
16 the artificial intelligence that generated the artificially created
17 evidence;

18 2. The independent evidence is admissible under the existing rules of
19 evidence;

20 3. The independent evidence bears a close and significant relationship
21 to the artificially created evidence in such a manner that it reinforces
22 or corroborates the information created from the artificially created
23 evidence.

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

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

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

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

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

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