STATE OF NEW YORK

4424

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. FERNANDEZ -- 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 admissibility of victim's outcry and disclosures in cases of sexual abuse

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 60.41 to read as follows:

§ 60.41 Rules of evidence; admissibility of outcry and disclosures in cases of sexual abuse.

1. Evidence that a victim disclosed or failed to disclose the alleged sexual abuse, or any portion thereof, to another person shall be admissible on the prosecution's case-in-chief, including during the direct examination of relevant witnesses in a prosecution for an offense or an attempt to commit an offense defined in article one hundred thirty or two hundred sixty-three or section 255.25, 255.26, 255.27 or 260.10 of the penal law.

2. Such testimony may come from the victim and also from any other person who heard or saw said disclosure, and such testimony may include multiple disclosures if applicable. Such testimony shall include but is not limited to (a) the details of the complaint itself, (b) the demeanor of the victim, (c) any witness at the time of the disclosure, and (d) any surrounding circumstances or statements that give meaningful context to the disclosure.

3. Such testimony shall not be admissible for the truth of the matter or matters asserted therein, but only for limited purposes including, but not limited to (a) providing context and background to the allegations charged, (b) demonstrating the state of mind of the victim and other witnesses, (c) explaining the nature of the timing and delay, if any, of any disclosures of abuse, and (d) assisting the jury to determine whether or not to credit the victim's testimony. Upon receiving

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

LBD08758-01-3

testimony into evidence during any proceeding, the court shall instruct the jury as to the permissible uses of such testimony.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.