

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:

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

3 § 60.77 Rules of evidence; similar crimes in sexual offense cases.

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

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

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

23 4. For purposes of this section "sexual offense" means any conduct or
24 attempted conduct committed in any jurisdiction which is prohibited by
25 articles one hundred thirty and two hundred sixty-three and sections
26 230.34 and 230.34-a of the penal law.

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

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

LBD15484-02-4