

STATE OF NEW YORK

1640--A

2025-2026 Regular Sessions

IN SENATE

January 13, 2025

Introduced by Sens. FERNANDEZ, BORRELLO, ROLISON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to admissibility of a complainant'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:

1 Section 1. The criminal procedure law is amended by adding a new
2 section 60.41 to read as follows:

3 § 60.41 Rules of evidence; admissibility of outcry and disclosures in
4 cases of sexual abuse.

5 1. Evidence that a complainant disclosed the alleged sexual abuse, or
6 any portion thereof, to another person may be admissible on the prose-
7 cution's case-in-chief, including during the direct examination of rele-
8 vant witnesses in a prosecution for an offense or an attempt to commit
9 an offense defined in article one hundred thirty or two hundred sixty-
10 three or section 230.34, 230.34-a, 235.22, 255.25, 255.26, 255.27,
11 260.10, 260.24, 260.25, 260.32, or 260.34 of the penal law.

12 2. Such evidence may come from the complainant and also from any other
13 person who heard or saw any disclosure, and such evidence may include
14 multiple disclosures if applicable. Such evidence may include but is not
15 limited to (a) the details of the complaint itself; (b) the demeanor of
16 the complainant at the time of any disclosure; (c) any witness to any
17 disclosure; and (d) any surrounding circumstances or statements that
18 provide context to a disclosure.

19 3. Evidence regarding the details of the complaint itself as
20 described in paragraph (a) of subdivision two of this section shall not
21 be received into evidence for its truth but only for the limited
22 purposes of one or more of the following: (a) providing context and
23 background to the allegations charged; (b) demonstrating the state of

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

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1 mind of the complainant and other witnesses; (c) explaining the nature
2 of the timing and any delay in the making of any disclosure; and (d)
3 assisting the jury to determine whether to credit the complainant's
4 testimony.

5 4. In determining the admissibility of such evidence, the court must
6 balance the relevance and materiality of such evidence against any
7 unfair prejudicial effect on the defendant. Such determination of the
8 court shall be made after an offer of proof by the prosecution, outside
9 the hearing of the jury, or after such hearing as the court may require.
10 The court shall place on the record the court's findings essential to
11 the court's determination.

12 5. Upon receiving evidence described in this section during any
13 proceeding, the court shall instruct the jury as to the permissible uses
14 of such testimony.

15 6. Nothing in this section shall be construed to (a) prohibit a
16 defendant from introducing evidence of a complainant's failure to
17 promptly disclose the alleged crime; or (b) prevent the admission of
18 evidence of a disclosure for its truth if such would be permissible
19 under another provision of law.

20 § 2. This act shall take effect immediately.