

4.44. Proof of Previous Conviction; When Allowed [CPL 60.40 (3)]

Subject to the limitations prescribed in [CPL] section 200.60, the people may prove that a defendant has been previously convicted of an offense when the fact of such previous conviction constitutes an element of the offense charged, or proof thereof is otherwise essential to the establishment of a legally sufficient case.

Note

This section restates verbatim CPL 60.40 (3), except for the bracketed reference to the CPL. The statute omits the reference to the CPL.

Under CPL 200.60, if a prior conviction is an element of an offense, a defendant may preclude proof of that conviction if, outside the presence of the jury, the defendant admits the prior conviction.