STATE OF NEW YORK

1070

2019-2020 Regular Sessions

IN SENATE

January 10, 2019

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to the definition of mentally disabled and in relation to larceny

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 155.00 of the penal law is amended by adding a new subdivision 10 to read as follows:

10. "Mentally disabled" means that a person suffers from a mental disease, defect or condition which renders him or her incapable of appraising the nature of the conduct constituting the taking, obtaining or withholding of his or her property.

§ 2. Section 155.10 of the penal law is amended to read as follows:

§ 155.10 Larceny; no defense.

1. The crimes of (a) larceny committed by means of extortion and an attempt to commit the same, and (b) bribe receiving by a labor official as defined in section 180.20 **of this part**, and bribe receiving as defined in section 200.05 **of this part**, are not mutually exclusive, and it is no defense to a prosecution for larceny committed by means of extortion or for an attempt to commit the same that, by reason of the same conduct, the defendant also committed one of such specified crimes of bribe receiving.

2. It is no defense to a prosecution for larceny that the defendant obtained consent to take, withhold, or obtain property, where such consent was obtained from a person whom the defendant knew or had reason to know was mentally disabled.

§ 3. This act shall take effect immediately.

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

LBD02852-02-9