

# STATE OF NEW YORK

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2171

2019-2020 Regular Sessions

## IN SENATE

January 23, 2019

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Introduced by Sens. BAILEY, ADDABBO, BENJAMIN, HOYLMAN, KRUEGER, PARKER, SAVINO -- 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 re-defining physically helpless

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

- 1 Section 1. Subdivision 7 of section 130.00 of the penal law is  
2 amended to read as follows:  
3 7. "Physically helpless" means that a person is unconscious or for any  
4 other reason is physically unable to communicate [~~unwillingness~~] affir-  
5 mative consent to an act. Such affirmative consent is a knowing, volun-  
6 tary, and mutual decision among all participants to engage in sexual  
7 activity. Consent can be given by words or actions, as long as those  
8 words or actions create clear permission regarding willingness to engage  
9 in the sexual activity.  
10 § 2. This act shall take effect immediately.

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

LBD01806-01-9