

STATE OF NEW YORK

6679--B

2019-2020 Regular Sessions

IN SENATE

August 30, 2019

Introduced by Sens. BIAGGI, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to prohibiting the use of the intoxication of a victim as a defense to a criminal charge for sex crimes

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

1 Section 1. Paragraph (d) of subdivision 2 of section 130.05 of the
2 penal law, as amended by chapter 40 of the laws of 2004, is amended and
3 a new paragraph (e) is added to read as follows:

4 (d) Where the offense charged is sexual misconduct as defined in
5 subdivisions one and two of section 130.20, rape in the third degree as
6 defined in subdivision three of section 130.25, or criminal sexual act
7 in the third degree as defined in subdivision three of section 130.40,
8 in addition to forcible compulsion, circumstances under which, at the
9 time of the act of intercourse, oral sexual conduct or anal sexual
10 conduct, the victim clearly expressed that he or she did not consent to
11 engage in such act, and a reasonable person in the actor's situation
12 would have understood such person's words and acts as an expression of
13 lack of consent to such act under all the circumstances[-]; or

14 (e) Where the offense charged is sexual misconduct as defined in
15 subdivisions one and two of section 130.20, rape in the third degree as
16 defined in subdivision three of section 130.25, or criminal sexual act
17 in the third degree as defined in subdivision three of section 130.40,
18 in addition to forcible compulsion, circumstances under which, at the
19 time of the act of intercourse, oral sexual conduct or anal sexual
20 conduct, the victim is under the influence of any drug, intoxicant, or
21 other substance to a degree which renders that person incapable of
22 giving consent and that condition is known or reasonably should be known
23 to a person in the actor's situation.

24 § 2. This act shall take effect immediately.

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

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