STATE OF NEW YORK

2115

2021-2022 Regular Sessions

IN SENATE

January 19, 2021

Introduced by Sens. BAILEY, ADDABBO, BENJAMIN, BIAGGI, HOYLMAN, KRUEGER, PARKER, PERSAUD, SAVINO, SERRANO -- 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:

Section 1. Subdivision 7 of section 130.00 of the penal law is amended to read as follows:

7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate [~~unwillingness~~] **affirmative consent** to an act. **Such affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity.**

§ 2. This act shall take effect immediately.

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

LBD01066-01-1