STATE OF NEW YORK

3347

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. GONZALEZ-ROJAS, BORES -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the penal law, in relation to criminal liability for persons living with sexually transmitted infections who engage in sexual activity; and to repeal section 2307 of the public health law relating to persons knowing themselves to be infected with venereal disease

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

Section 1. Section 2307 of the public health law is REPEALED.

§ 2. Subparagraph (vi) of paragraph (k) of subdivision 3 of section 160.50 of the criminal procedure law, as amended by chapter 92 of the laws of 2021, is amended and a new subparagraph (vii) is added to read as follows:

(vi) the conviction was for an offense defined in section 222.10, 222.15, 222.25 or 222.45 of the penal law[~~.~~]**; or**

(vii) the conviction was for the violation of former section 2307 of the public health law.

§ 3. Section 15.10 of the penal law is amended to read as follows:

§ 15.10 Requirements for criminal liability in general and for offenses of strict liability and mental culpability.

1. The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If such conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, such offense is one of "strict liability." If a culpable mental state on the part of the actor is required with respect to every material element of an offense, such offense is one of "mental culpability."

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

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2. A person living with a sexually transmitted infection who has sexual contact or other activity with another person has not engaged in conduct or activity that creates criminal liability for any offense where their status as a person with a sexually transmitted infection is a factor. For the purposes of this subdivision, a sexually transmitted infection is transmitted primarily if not exclusively through sex or intimate physical contact.

§ 4. This act shall take effect immediately and no prosecution or action shall be commenced or continued pursuant to section 2307 of the public health law as repealed pursuant to section one of this act on or after such date.