STATE OF NEW YORK

4118

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. BUTTENSCHON -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the offense of aggravated rape and criminal sentencing for defendants convicted of certain sexual offenses

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

Section 1. Short title. This act shall be known and may be cited as "Kimberlee's law".

§ 2. The penal law is amended by adding a new section 130.36 to read as follows:

§ 130.36 Aggravated rape.

A person is guilty of aggravated rape when he or she engages in sexual intercourse with another person:

1. With intent to cause serious physical injury; and

2. Such person is armed with a deadly weapon or dangerous instrument, or any object used in a manner to lead the victim to reasonably believe such object to be a deadly weapon or dangerous instrument; and

(a) By forcible compulsion; or

(b) Such victim is incapable of consent by reason of being physically helpless; or

(c) Such victim is less than eleven years old; or

(d) Such victim is less than thirteen years old and the actor is eighteen years old or more.

Aggravated rape is a class A felony.

§ 3. Section 70.80 of the penal law is amended by adding a new subdivision 10 to read as follows:

10. Sentence of imprisonment for an offender of certain felony sex offenses. An offender convicted of rape in the first degree pursuant to section 130.35 of this chapter or an offender convicted of aggravated rape pursuant to section 130.36 of this chapter shall not be released

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

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pursuant to section 70.40 of this article until such minimum sentence shall have been served.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.