

STATE OF NEW YORK

4540

2025-2026 Regular Sessions

IN SENATE

February 6, 2025

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the penal law, in relation to consent

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

1 Section 1. Subdivision 2 of section 130.05 of the penal law, as
2 amended by chapter 1 of the laws of 2000, paragraph (c) as amended by
3 chapter 264 of the laws of 2003 and paragraph (d) as amended by chapter
4 23 of the laws of 2024, is amended to read as follows:

5 2. (a) Consent to sexual contact is a knowing, voluntary, and mutual
6 decision among all participants. Consent can be given by words or
7 actions, as long as those words or actions create clear ongoing permis-
8 sion regarding willingness to engage in the sexual activity.

9 (b) Lack of consent results from:

10 [~~a~~] (i) Forcible compulsion, duress, coercion, or verbal withdrawal
11 of previously granted consent; or

12 [~~b~~] (ii) Incapacity to consent; or

13 [~~e~~] (iii) Where the offense charged is sexual abuse or forcible
14 touching, any circumstances, in addition to forcible compulsion or inca-
15 capacity to consent, in which the victim does not expressly or impliedly
16 acquiesce in the actor's conduct; or

17 [~~d~~] (iv) Where the offense charged is rape in the third degree as
18 defined in subdivision seven, eight or nine of section 130.25, or a
19 crime formerly defined in subdivision three of section 130.40, in addi-
20 tion to forcible compulsion, circumstances under which, at the time of
21 the act of vaginal sexual contact, oral sexual contact or anal sexual
22 contact, the victim clearly expressed that [~~he or she~~] such victim did
23 not consent to engage in such act, and a reasonable person in the
24 actor's situation would have understood such person's words and acts as

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

LBD06496-02-5

1 an expression of lack of consent to such act under all the circum-
2 stances.
3 § 2. This act shall take effect on the thirtieth day after it shall
4 have become a law.