STATE OF NEW YORK

5281

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sens. SEPULVEDA, FERNANDEZ -- 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 deeming persons incapable of consent when such persons are facing pending criminal charges and the actor is a police officer, peace officer or other law enforcement agent who knows or reasonably should know that such person is facing pending charges

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

Section 1. Paragraph (j) of subdivision 3 of section 130.05 of the penal law, as added by section 1 of part JJ of chapter 55 of the laws of 2018, is amended and a new paragraph (l) is added to read as follows:

(j) detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official and the actor is a police officer, peace officer or other law enforcement official who either: (i) is detaining or maintaining custody of such person; or (ii) knows, or reasonably should know, that at the time of the offense, such person was detained or in custody[.]**; or**

(l) facing pending criminal charges and the actor is a police officer, peace officer or other law enforcement agent who knows or reasonably should know that such person is facing pending charges unless such person is a member of the same family or household as defined in paragraphs (b), (c) and (d) of subdivision one of section 530.11 of the criminal procedure law as such police officer, peace officer or other law enforcement agent.

§ 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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