

MEMORANDUM OF SUPPORT

PERMIT ARREST OF ABUSERS WHO SEXUALLY ASSAULT INTOXICATED VICTIMS

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The New York State Coalition Against Domestic Violence (NYSCADV) urges the New York State Legislature to hold accountable abusers who sexually assault intoxicated victims and to prohibit perpetrators from using voluntary intoxication as a defense for such offenses. This legislation would amend the Penal law to add sexual misconduct, rape in the third degree, and criminal sexual act in the third degree as offenses covered under the state's inability to consent statute.

The National Sexual Violence Resource Center (NSVRC) states that influence from alcohol and/or drugs can impair an individual's cognitive and physical functions to the extent that they cannot consent to sexual activity. Intoxication can impair a victim's ability to communicate, understand what is happening, and ability to control their conduct.

According to the CDC's National Intimate Partner and Sexual Violence Survey: 2010 Summary Report, in the United States, nearly 1 in 5 women have been raped at some time in their lives. The survey also states that 9.5 million, or 8%, of women have experienced alcohol/drug-facilitated rape in their lifetime. Moreover, victims of sexual violence can experience harmful long-lasting physical, psychological and emotional effects.

Currently, under New York State Penal Law §130.05, lack of consent results from forcible compulsion, incapacity to consent, and any circumstances in which the victim does not expressly or impliedly consent. Incapacity to consent does not currently include individuals who are intoxicated.

Many victims of sexual assault do not report their assault to police or seek out services. Victims of alcohol/drug-facilitated rape are even less likely to file a report, and those who do are unable to obtain justice because intoxication is not covered under state statute.

NYSCADV urges the NYS Legislature to ensure those who commit sexual assault are held accountable for their crime, regardless of whether their victim was voluntarily intoxicated.

ABOUT NYSCADV:

Established in 1978, NYSCADV is designated by the U.S. Department of Health and Human Services as the information clearinghouse, primary point of contact, and resource center on domestic violence for the State of New York. NYSCADV is responsible for supporting the development of policies, protocol, and procedures to enhance domestic violence intervention and prevention and also provides education and technical assistance to the network of primary-purpose domestic violence service providers statewide.

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