



NOW NY Urges Assembly to Close Intoxication Loophole Victims of Sexual Assault Deserve Justice

Memo of Support [A5519A/S452A](#)

The National Organization for Women New York urges the New York State Assembly to join the New York Senate in holding accountable sexual predators who target intoxicated individuals for sexual assault by passing A5519A sponsored by Assemblymember Jeffrey Dinowitz.

This legislation would close the rape intoxication loophole, allowing sex crimes charges to be brought in cases where a victim has become voluntarily intoxicated, if a reasonable person should have known that the victim was incapable of giving consent. We cannot set the bar in our criminal justice system so low that drinking too much alcohol and becoming unable to consent is a permission slip for rape.

This legislation would amend the Penal Code to add sexual misconduct, rape in the third degree, and criminal sexual act in the third degree as offenses in which voluntary intoxication, not exclusively involuntary intoxication, is covered under the state's 'inability to consent' statute.

District Attorneys across the state confirm that many cases of sexual assault are dismissed because New York law gives perpetrators the ability to use the victim's voluntary intoxication as a defense.

A national study funded by the U.S. Department of Justice found that more than a third of rape victims were under the influence of drugs or alcohol. Perpetrators purposefully target victims who are vulnerable after drinking to excess or encourage drinking to facilitate an assault.

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

The New York State Senate passed bill S452A sponsored by Senator Alessandra Biaggi in the 2021 legislative session nearly unanimously. NOW NY urges the Assembly to do the same and pass the companion bill to ensure sexual assault victims can seek justice.

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