

New York S.10632 / A.101

Voluntary Intoxication Exclusion Reform Bill

The Cornell case has laid bare a deeply troubling gap in New York law: **survivors who are sexually assaulted while voluntarily intoxicated can face significant barriers to justice.** The current law can shield perpetrators when a victim voluntarily consumes alcohol or drugs, becomes too intoxicated to consent, and is then sexually assaulted. At a moment when our country is reckoning with the systems and institutions that too often enable sexual violence, New York must ensure its laws protect survivors, not those who exploit their vulnerability. **From campus sexual assault to sex trafficking, alcohol and drugs are routinely used to facilitate sexual violence and exploitation.** A person does not surrender the right to bodily autonomy simply because they chose to drink or use drugs. **Intoxication is not consent, and vulnerability should never become a legal loophole for perpetrators.**

THIS LEGISLATION WILL:

CLOSE THE EXCLUSION LOOPHOLE

Amends New York's penal code to allow prosecution of sex crimes where the victim voluntarily consumed drugs or alcohol AND there is proof beyond a reasonable doubt of both of these things:

- 1 The victim was so severely intoxicated at the time of the assault that they were incapable of appraising or controlling their own actions.
- 2 The victim's incapacitated condition was so obvious that a person in the defendant's situation knew or reasonably should have known of the victim's condition.

WRONGFUL CONVICTION CONCERNS:

The strength of the bill's language, requiring proof beyond reasonable doubt, was written to avoid wrongful convictions. The bill stipulates that prosecution is appropriate only in situations where the victim is intoxicated to the extent of being "incapable" of assessing and controlling their situation, and when that state was "known" or should have been to the defendant.