

Key Component of the Governor's 2020 Women's Agenda

Cuomo: "Our laws must protect the people of this state — not condone rape as a punishment for consuming alcohol. With this proposal we are saying enough is enough and taking action to close this nonsensical loophole and help end the culture of abuse once and for all."

Governor Andrew M. Cuomo today unveiled the 4th proposal of his 2020 State of the State agenda - closing the rape intoxication loophole. Currently the Penal Law does not adequately protect victims of sexual offenses who could not consent to sexual activity due to voluntary intoxication. The Governor will advance legislation to close this loophole once and for all and clarify that a victim's ability to consent is jeopardized whether they were voluntarily or involuntarily intoxicated, giving prosecutors the ability to hold sexual abusers accountable for their criminal acts and allowing sexual abuse survivors to obtain the justice they deserve.

"The pervasive culture of sexual assault and abuse has gone on for too long in this country. While New York has some of the most aggressive laws in the nation when it comes to combatting this insidious disease, a loophole in current law allows rapists to walk free and vacate their heinous crimes based on a legal technicality," **Governor Cuomo said.** "Our laws must protect the people of this state — not condone rape as a punishment for consuming alcohol. With this proposal we are saying enough is enough and taking action to close this nonsensical loophole and help end the culture of abuse once and for all."

Closing the Loophole

Under current law, a person is deemed incapable of consent when he or she is mentally incapacitated. However the law as currently written states mental incapacitation occurs when a person involuntarily ingests drugs or alcohol. The exclusion of incapacitation due to the voluntary ingestion of drugs or alcohol limits the ability to fully prosecute sexual assaults, even under circumstances in which the victim did not and could not consent to sexual activity and such inability to consent was apparent to the abuser. This legal loophole often hinders a sexual assault victim's ability to obtain justice and allows abusers to walk free. This year Governor Cuomo will advance legislation to close that loophole and rightfully clarify that a victim's ability to consent is jeopardized whether they were voluntarily or involuntarily intoxicated.

Governor Cuomo has consistently worked to end the pervasive culture of sexual harassment, abuse, assault and discrimination against women by strengthening protections for women and survivors of sexual crimes and helping to break down barriers that often prevent survivors from getting justice. This past year, the Governor advanced and signed legislation that extended or eliminated the statutes of limitation for certain sexual offenses, which will make it easier for these cases to be prosecuted and for victims to receive recourse. Governor Cuomo also signed into law provisions that extend rape shield protections for victims of sexual offenses in court. These laws build on the progress of the governor's groundbreaking "Enough is Enough" initiative that ensures that colleges and universities in New York are preventing and responding to sexual assault, dating violence, domestic violence and stalking on campuses.

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