



2018 New York State YMCA

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Committee Assignment: Assembly Liberty 3

Bill #: AL-17

1 **Sponsors:** Georgia Ferguson, Angelica Hernandez, Kayla Scharf, Sean Siegel

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3 **An Act To**

4 Amend § 130.30 of the New York State Penal Law by adding subdivision 3 to
5 classify “stealthing” as a form of rape in the second degree.

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

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9 **Purpose**

10 The purpose of this bill is to classify “stealthing” as a form of rape in the second
11 degree.

12 **Summary of Provisions**

13 **Section 1: Definitions**

14 **Stealthing:** a practice where secretly removes or damage condoms without their
15 partners' knowledge.

16 **Rape in the Second Degree:** a person commits second-degree rape when he or she
17 engages in sexual intercourse with another person who is less than fifteen years old
18 and the defendant is eighteen years old or more; or who is incapable of consent by
19 reason of being mentally disabled or mentally incapacitated. This is punishable by
20 one to seven years in prison and up to five thousand dollars in fines.

21 **Consent:** give permission for something to happen.

22 **Section 2:**

23 § 130.30 Rape in the second degree.

24 A person is guilty of rape in the second degree when:

25 1.) being eighteen years old or more, he or she engages in sexual
26 intercourse with another person less than fifteen years old; or

27 2.) he or she engages in sexual intercourse with another person who is
28 incapable of consent by reason of being mentally disabled or mentally
29 incapacitated.

30 3.) he or she removes the condom, without the consent of the other person.

31 It shall be an affirmative defense to the crime of rape in the second degree as
32 defined in subdivision one of this section that the defendant was less than four
33 years older than the victim at the time of the act. Rape in the second degree is a
34 class D felony.

35 **Justification**

36 “Stealthing” must be classified as a form of sexual abuse because this is, not only, a
37 violation of victims’ bodies, but also of their trust and dignity. The removal of a
38 condom during sex opens up risks for both partners including: STI’s, STD’s, and
39 pregnancy. When one partner consents to sex with a condom, they are consenting
40 to sex with protection from those risks. Victims did not, however, consent to sex
41 without protection from those risks. Every ninety-eight seconds someone in the
42 U.S. is sexually assaulted but only six out of one thousand perpetrators go to
43 prison. This statistic doesn’t even include stealthing victims, yet there are already a
44 tremendous number of victims that don’t get justice and perpetrators that don’t pay
45 for their crimes. Representative Ro Khanna from California said that “consent is not

46 up for discussion," because it is a crucial requirement "for the entirety of any sexual
47 interaction" and stealthing is an obvious violation of the agreement made "between
48 partners" during any sexual interaction. Nonconsensual removal of a condom during
49 sex turns consensual sex into nonconsensual sex and any form of nonconsensual
50 sex is rape.

51 **Fiscal Implications**

52 The fiscal implications for this bill include the cost to house an inmate, which is
53 approximately sixty thousand dollars per year.

54 **Effective Date**

55 This bill will go into effect one year after passage.