



**2018 New York State YMCA  
Youth And Government**

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Committee Assignment: Assembly Freedom 1

Bill #:AF-01

1 **Sponsors:** : Simon Minich, Andre Desalvo, Justin Larry, Grayson Alkins

2

3 **AN ACT TO:** Amend article §130.05 of NYS Penal Law to require transgender  
4 individuals to disclose their biological sex to their partner before having sexual  
5 relations.

6

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

8

9 **PURPOSE:**

10 To require transgender individuals to notify their partner that they are transgender  
11 before having sexual relations.

12

13 **SUMMARY OF PROVISIONS:**

14 Section 1: Definitions

15 Informed consent- Consent where the person consenting has all of the information

16 Transphobia- a fear of transgender individuals, usually associated with hatred or  
17 violence towards transgender individuals.

18 Section 2:

19 § 130.05 Sex offenses; lack of consent.

20 1. Whether or not specifically stated, it is an element of every  
21 offense defined in this article that the sexual act was committed  
22 without consent of the victim.

23 2. Lack of consent results from:

24 (a) Forcible compulsion; or

25 (b) Incapacity to consent; or

26 (c) Where the offense charged is sexual abuse or forcible touching, any  
27 circumstances, in addition to forcible compulsion or incapacity to consent, in  
28 which the victim does not expressly or impliedly acquiesce in the actor's conduct;  
29 or

30 (d) Where the offense charged is rape in the third degree as defined in  
31 subdivision three of section 130.25, or criminal sexual act in the third degree as  
32 defined in subdivision three of section 130.40, in addition to forcible  
33 compulsion, circumstances under which, at the time of the act of intercourse, oral  
34 sexual conduct or anal sexual conduct, the victim clearly expressed that he or she  
35 did not consent to engage in such an act, and a reasonable person in the actor's  
36 situation would have understood such person's words and acts as an expression  
37 of lack of consent to such act under all the circumstances.

38 (e) A transgender individual's failure to inform their partner of their biological  
39 sex.



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40 **JUSTIFICATION:**

41 Requiring transgender individuals to disclose their birth sex to their partner protects  
42 both people. It protects the partner from emotional trauma that could cause from  
43 unknowingly having sexual relations someone of the same biological sex. This bill  
44 would also protect transgender individuals. Because transgenderism is a relatively  
45 new concept, there are many people who fear the unknown and exhibit behaviors of  
46 transphobia. By requiring transgender people to disclose their sex to their partner,  
47 it can prevent aggressions from the partner after the fact, protecting the trans  
48 individual. This bill will eliminate potentially awkward or dangerous situations and  
49 protect both parties involved.

50

51 **FISCAL IMPLICATIONS:** None

52 **ENVIRONMENTAL IMPLICATIONS:** None

53 **EFFECTIVE DATE:** This bill will go into effect one year after pass