

INTRODUCTION

This supplement provides an introduction to the New York Penal Law which defines criminal conduct. This supplement is not intended as an extensive presentation of the statutes provided by the criminal law, but rather briefly describes the statutes, discussed in Professor Lippman's *Contemporary Criminal Law, 2nd edition*, found in the New York State Penal Code. Case decisions made in New York courts have also been provided as illustrations for the statutes. The following discussion provides a brief background on the government of New York, the process by which a law is enacted, and the basic elements of an offense. Each discussion in the *Introduction* is intended to provide context for a better understanding of the readings in this supplement.

THE PARTS OF NEW YORK GOVERNMENT

As with the federal system, there are [three branches of government](#) in New York: the executive, legislative, and judicial. This supplement will concentrate primarily on the judicial branch. The executive branch is headed by the governor and also comprises the comptroller and attorney general. The executive branch is tasked with enforcing the law. The legislative branch is responsible for making the law, including the Penal Law. This branch is bicameral. That is, the legislative branch (the Legislature) is composed of two bodies, or houses: the Senate and the Assembly, both of which are located in Albany. One of the Legislature's most important functions is to propose laws that are within the limits of the federal constitution. These laws begin as bills that can be introduced in either house. The Legislature also acts as a check upon the executive authority of the governor. The Senate has the power to confirm the governor's appointment of nonelected state officials and court judges after hearings concerning the candidate's qualifications.

The judicial branch is responsible for interpreting the law that the legislative branch introduces and the executive branch enacts. The judicial branch also determines the practical application and constitutionality of laws already in effect. The judicial branch includes the courts in New York State. The structure of the courts is divided into three main components: the appellate courts, the trial courts of superior jurisdiction, and the trial courts of lesser jurisdiction. The trial courts are those with original jurisdiction and are empowered to hear cases originating in their jurisdiction in most court proceedings. On the other hand, the appellate courts hear appeals from the decisions coming from the trial courts. The court structure will be discussed in greater detail in Chapter 1.

THE PROCESS INVOLVED FROM AN IDEA TO A BILL TO A LAW

A discussion about the law in New York, found on the [New York State Senate's website](#), is enhanced with a discussion about the process by which an idea becomes a law in New York. Briefly, an idea is presented to one of the houses by a senator, assemblyperson, citizen, state official, or outside organization. The idea is drafted as a bill by private attorneys or a legislative bill drafting commission in the Legislature. The bill is then introduced in the house where it originated, given a number, and sent to an appropriate house committee. The committee evaluates the bill and decides whether to send it to the floor for a vote. Once a bill is introduced by the committee, discussion or debate may occur after which a vote is taken. If the majority approves, then the bill is sent to the other house. If the other house approves the bill without amendment, the bill gets sent to the governor to be signed into law. If a bill is changed in the second house, however, then the bill is sent to the original house for concurrence with the amendments.

While the Legislature is in session, the governor has 10 days to sign or veto a bill that was passed by both houses. A signed bill will become law. But a vetoed bill will be returned to the house that first passed it, along with a reason for the disapproval. A vetoed bill can still become law if two-thirds of each house votes to override the veto. If the governor fails to sign or veto the bill within the 10 day period, the bill will become law automatically. When the Legislature is not in session, the governor has 30 days to make a decision and a failure to act has the same effect as a veto.

An exception to the process occurred in 1965 when the New York Penal Law was substantially revised. In New York State, the Penal Law had not previously been revised for about 80 years and was considered outdated. In its revision, a commission was created in order to study, rewrite, and reorganize the old Penal Law. The commission ultimately presented a revised version of the Penal Law to the Legislature. In 1967, the revised Penal Law was effected.¹

THE ELEMENTS OF AN OFFENSE

As Professor Lippman in his textbook, the elements of an offense that courts, including those in New York, must consider are:

- conduct—Behavior must have constituted an offense. This is the *actus reus* defined in Chapter Four. Conduct constituting an offense is criminal unless the conduct is justified (Chapter 8), excused (Chapter 9), or otherwise involuntary;
- intent—The offender’s state of mind is considered at the time of the offense. This is the *mens rea*, which will be discussed in Chapter 5. The state of mind of the offender helps to determine the level of responsibility the offender had when he or she committed the conduct under consideration. However, an actor whose state of mind is affected by influences such as intoxication, insanity, or extreme emotional disturbance (discussed in Chapter 9), may not be able to form the intent required for criminal responsibility.
- circumstances—These are the specifics surrounding an offense, such as:
 - o the nature of the offender (e.g., public servant, intoxicated person)
 - o the nature of the victim (e.g., child)
 - o the place of the conduct (e.g., in the home or outside)
 - o the time of the conduct (e.g., in the day or middle of the night); and
- result—The level of harm caused is determined when considering the degree of culpability.

It will help to keep these elements in mind when reading through the cases in this supplement.

THE ORGANIZATION OF THIS SUPPLEMENT

The chapters in this supplement are designed to expand upon the concepts discussed in Professor Lippman’s textbook as they apply to New York State. The chapters in this supplement also generally follow the format of the textbook, although not every concept introduced in the textbook will be discussed here. The cases in this supplement will be briefly presented as examples to the concepts and statutes introduced. Landmark decisions and decisions that exemplify important legal concepts will be discussed in greater detail and will be entitled with capital letters. Some of the landmark decisions in this supplement are *PEOPLE v. JOVANOVIC* (Chapter 8), *PEOPLE v. MARRERO* (Chapter 9), *PEOPLE v. LIBERTA* (Chapter 10). Landmark decisions are those that establish a precedent that substantially changes the interpretation of the law. When deciding cases with similar issues or facts in subsequent case law, court decisions will adopt the principles resulting from a landmark case. Landmark and important cases will be summarized. Language incorporated directly from the text of the decision will be provided in quotes.

The cases provided in this supplement are mostly drawn from appellate decisions. Additionally, the chapters of this supplement will relate to the respective topic presented in the textbook's chapters. Hypertext links will be provided in each chapter in order to view the statute or case law discussed. Also, to the greatest extent possible, history will be provided in order to provide context around the reasons for the decisions of both the Legislature and courts. Finally, each chapter will end with five multiple choice review questions.

¹Schwartz, H. (1968-1969). Introduction. *Buffalo Law Review*, 18, 211-212.