



Legislation Details (With Text)

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Res. No. 144

Resolution calling upon the New York State Legislature to amend various sections of the Penal Law to better combat gang violence.

By Council Member Vallone Jr., Fidler, Gennaro, Gentile, Nelson, Palma, Recchia Jr., Weprin, Felder and Oddo

Whereas, Although great progress has been made combating crime in New York City, like most communities nationwide, gang related criminal activity still continues to prosper, thriving on shortcomings in the law that prescribe weak criminal penalties; and

Whereas, Dangerous and ruthless gangs, including the Bloods, Crips, Latin Kings, and a host of others, have established their presence in our schools and communities, bringing increased incidents of robbery, assault, drug dealing, prostitution and murder to our streets and neighborhoods; and

Whereas, While the NYPD and the District Attorney's offices work diligently to bring violent gang criminals to justice, successful prosecution is often hampered by the all too common occurrence of witness intimidation and tampering; these offenses occur when an individual threatens a witness or another with

physical injury in an attempt to dissuade said witness from testifying in court; and

Whereas, Brazen gang members, emboldened by the inadequate penalties prescribed for these offenses, will often attempt to intimidate a witness into not testifying; as the law currently stands, both the offenses of Tampering with a Witness in the Third Degree (Penal Law § 215.11) and Intimidation of a Witness in the Third Degree (Penal Law § 215.15) are Class E felonies; if the penalties for witness intimidation and/or tampering were made more severe, we would likely experience a reduction in the frequency of gang members using such scare tactics to deter witnesses from coming forward, and ultimately, witnesses would feel more assured and justice would benefit by no longer being routinely obstructed by fearless criminals; and

Whereas, By risking exposure to only the relatively minor offense of an “E” felony, a defendant can effectively compromise the entire judicial process by threatening a witness and getting him to flee or recant or refuse to testify; when this occurs, all the hard work and energy expended in securing an arrest and preparing a prosecution are wasted, as a criminal walks free in a gross miscarriage of justice; and

Whereas, Further, yet another shortcoming exists in our current law regarding gang violence - Gang Assault First (Penal Law § 120.07) and Second Degree (Penal Law § 120.06), B and C level felonies respectively, both require that the victim of the assault be “seriously injured” for these charges to apply; however, countless vicious gang attacks result in personal injury to the victims that does not rise to the level of serious injury as required by law; and

Whereas, In order to expand the number of victims protected by the law and to ensure that those responsible for violent gang assaults are justly punished, Second Degree Gang Assault (a class C felony) should be expanded to include defendants who, when acting together with two or more individuals present, attack a victim but cause physical injury as defined in the Penal Law; and

Whereas, It is imperative that law enforcement have the tools and resources to effectively prosecute gang criminals, and these include sensible laws and meaningful penalties for offenders; any inadequacies and shortcomings in these areas which prove to be counter-productive to the purpose of the law should be properly

remedied so that justice can truly be carried out; and

Whereas, Amending the Penal Law to reflect these changes would enhance the ability of law enforcement to effectively prosecute and bring to justice violent gang criminals, thereby greatly enhancing the safety and quality of life for all New Yorkers; now, therefore, be it

Resolved, That the Council of the city of New York calls upon the New York State Legislature to amend various sections of the Penal Law to better combat gang violence.

Res 80/2004
TB