



## Legislation Text

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**File #:** Res 1422-2008, **Version:** \*

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### Res. No. 1422

Resolution calling on the New York State Legislature to amend the Criminal Procedure Law, by adding the advanced age of a witness as a ground for an order directing the conditional examination of that witness.

By Council Members Vallone Jr., Gentile, Nelson, Sanders Jr. and Weprin

Whereas, Financial and material exploitation is the fastest growing form of elder abuse in the United States; and

Whereas, The elderly can easily be exploited and risk losing their life savings through the coercive conduct of predatory individuals who thrive on the vulnerability of the elderly; and

Whereas, As the nation's population ages, law enforcement faces enhanced challenges in prosecuting crimes that target the elderly; and

Whereas, Under the current New York State Criminal Procedure Law, a conditional examination of a witness can only occur when the witness will not be available at the time his or her testimony is sought because he or she is: (i) leaving the state for a substantial period of time or (ii) is physically ill or incapacitated; and

Whereas, Many prosecutors of crimes against the elderly have experienced the difficulty of attempting to put forth a criminal case without a witness's testimony due to his or her sudden illness or death; and

Whereas, Elderly witnesses must be given the opportunity to testify regarding the crimes committed against them despite the fact that the case itself may be prolonged or delayed for other reasons; and

Whereas, A person may have to wait years before he or she is called to testify at trial; and

Whereas, The likelihood of an elderly person forgetting critical facts pertaining to a case increases over time, which increases the probability that perpetrators of crimes against the elderly will escape punishment; and

Whereas, Section 660.20 of the Criminal Procedure Law should therefore be amended to include the

advanced age of an individual as a ground for a conditional examination; and

Whereas, This amendment would not only protect the elderly population against individuals that seek to financially exploit them, but it would also assist elderly victims in providing accurate testimony for crimes committed against them; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to amend the Criminal Procedure Law, by adding the advanced age of a witness as a ground for an order directing the conditional examination of that witness.

WJH  
LS# 4951  
5/6/08