



Legislation Text

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Res. No. 236

Resolution calling upon the New York State Legislature to pass and the Governor to sign into law legislation, which would amend the New York State Criminal Procedure Law to allow prosecutors and defense attorneys to apply for a conditional examination of witnesses who are of advanced age.

By Council Members Vallone, Chin, Constantinides and Ulrich

Whereas, According to the Manhattan District Attorney's Office, every year approximately four million elderly Americans are victims of some kind of elder abuse, including physical abuse, fraud and other forms of financial exploitation; and

Whereas, MetLife Mature Market Institute estimated that in 2010, financial exploitation cost elderly Americans approximately \$3 billion; 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, A person may have to wait years before he or she is called to testify at trial; and

Whereas, This has resulted in cases in which elderly witnesses and victims have died or become incapacitated before their cases reached trial, resulting in perpetrators having their cases dismissed or prosecutors allowing the perpetrators to plead to lesser offenses with lighter sentences because these witnesses were not able to present their testimony; and

Whereas, This problem should be addressed by amending section 660.20 of the Criminal Procedure Law to allow prosecutors and defense attorneys to conduct conditional examinations of witnesses aged 75 years or older on the basis of their age, thereby preserving their testimony for trial in the event they pass away or are

unable to testify due to a degenerative condition or other health issues; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign into law legislation, which would amend the New York State Criminal Procedure Law to allow prosecutors and defense attorneys to apply for a conditional examination of witnesses who are of advanced age.

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