



Legislation Text

File #: Res 1246-2000, **Version:** *

Res. No. 1246

Resolution calling upon the members of the New York State Legislature to enact Senate Bill No. 2191A, introduced by Senator Serphin Maltese, which would clarify the definition of physical injury and serious physical injury under the Penal Law.

By Council Member Stabile; also Council Members Wooten and Ognibene

Whereas, Under New York State Penal Law Section 10.00 (9), physical injury is defined as "impairment of physical condition or substantial pain", and serious physical injury is defined in Penal Law Section 10.00 (10) as "physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ"; and

Whereas, Under the current definitions of physical injury and serious physical injury, courts in New York State have been strict in requiring an objective level of such injuries, sometimes making it difficult to sustain a conviction for assault, despite the severe nature of the attack, because the injuries inflicted do not meet the threshold of the current definitions; and

Whereas, As a result of the current definitions and the court decisions interpreting them, many individuals are able to engage in physical violence without concomitant punishment; and

Whereas, This problem is particularly poignant in assaults on teachers; and

Whereas, In January 2000, according to the New York Post, there were five serious attacks on teachers during an 11-day period; and

Whereas, There has been a 20 percent jump in teacher assaults during the last school year; and

Whereas, The current definitions of physical injury and serious physical injury make it more difficult to prosecute and punish those who attack our teachers because such definitions and the courts' interpretation of them potentially exclude such injuries as a bloody nose and cuts and bruises; and

Whereas, Senate Bill No. 2191A would clarify the scope of physical injury by defining it as "impairment of physical condition or physical pain, illness or the presence of a palpable contusion, laceration, scalding or wound. Physical injury may be established by the testimony of the victim alone. Physical pain may be established by evidence of the injuries inflicted in the light of common experience"; and

Whereas, Senate Bill No. 2191A will further clarify the scope of serious physical injury by defining it as "physical injury which creates a risk of death, or which causes death or impairment of health or loss or impairment of the function of any bodily organ or member, or the loss or impairment of any mental faculty, or extreme physical pain. Serious physical injury may be established by proof that the victim required surgery, or a course of medical treatment or physical rehabilitation, or was admitted to a hospital as a patient for medical treatment"; and

Whereas, Such a change in the definition of physical injury and serious physical injury will thus widen the scope of the assault statute, thereby encompassing many more physical attacks; and

Whereas, These broadened definitions of physical injury and serious physical injury will help reduce violence against teachers by making it easier for prosecutors to secure assault convictions, insure that those who attack teachers receive the appropriate punishment and may deter students from attacking teachers; now, therefore, be it

Resolved, That the New York City Council calls upon the New York State Legislature to enact Senate Bill No. 2191A, introduced by Senator Serphin Maltese, which would clarify the definition of physical injury and serious physical injury under the Penal Law.

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