



## Legislation Text

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Res. No. 1649

Resolution calling upon members of the New York State Assembly to pass a New York State Senate bill which eliminates the statute of limitations for the prosecution of Class B violent felony offenses.

By Council Members Golden, Nelson, Provenzano, Abel, Fiala, Oddo and Stabile; also Council Members Koslowitz and Wooten

Whereas, Under New York State Penal Law, a class B violent felony has a statute of limitations of five years; and

Whereas, This time limitation impedes the solving and prosecution of many serious cases, especially rape cases, as DNA methods have advanced and enabled law enforcement to resolve old cases; and

Whereas, The New York State Senate recently passed a bill which will eliminate the statute of limitations for the prosecution of Class B violent felony offenses, such as rape in the first degree, so that these offenses will be afforded the same treatment as Class A felonies, by allowing class B violent felonies to be prosecuted at anytime; and

Whereas, Although the main purpose of a statute of limitations is to address a defendant's difficulties in having to defend against a charge when basic facts may have become obscured by the passage of time, this is not a concern when using results from DNA testing as age does not weaken its forensic value; and

Whereas, All fifty states now require certain offenders to submit DNA so that DNA technicians can break open the nucleus of the collected cells, extract DNA and then amplify it into batches that are examined at 13 to 15 points along the DNA strands to construct a person's genetic profile; and

Whereas, According to Manhattan District Attorney Robert Morgenthau, a DNA profile fits one in 240 billion people, making the results almost indisputable; and

Whereas, Both victims and defendants benefit from the removal of the statute of limitations on class B violent felonies in favor of reliance on DNA testing, as this method of forensic analysis has worked both to convict the guilty and to release the falsely accused even after more than five years have elapsed; and

Whereas, The statute of limitations in rape cases is especially frustrating since for more than ten years emergency room nurses have been collecting and storing semen and other evidence from rape and sexual abuse victims in "rape kits", and when analyzed this evidence allows investigators to identify rapists by their DNA signature, even if they are not physically accessible to the police; and

Whereas, Governor Pataki, quoted in the New York Times, stated that there are "few crimes as heinous as rape, which too often leaves the victim with severe and long lasting physical and emotional scars... Currently the law imposes a five-year statute of limitations on the prosecutions of rape, while the trauma for the victims can last a lifetime"; and

Whereas, With this improved technology of DNA, it is time to provide rape victims and the victims of other class B violent felony offenses with another tool to help prosecute these heinous offenses; now, therefore, be it

Resolved, That the Council of the City of New York calls upon members of the New York State Assembly to pass a New York State Senate bill which eliminates the statute of limitations for the prosecution of class B violent felony offenses.