



Legislation Text

File #: Res 0546-2002, **Version:** *

Res. No. 546

Resolution calling upon the New York State Legislature to pass A.02851 and S.03279, which amend the New York State Penal Law to include the crime of financial exploitation of the elderly.

By Council Members Nelson, Addabbo, Baez, Comrie, Diaz, Felder, Fidler, Gerson, Jackson, Jennings, Liu, McMahon, Sanders, Sears, Stewart, Vann, Weprin, Gennaro and Golden

Whereas, Twelve percent of reported elder abuse cases each year involve financial exploitation, according to a study released in April 2001 by the National Center on Elder Abuse; and

Whereas, The National Conference of State Legislatures reports that as many as one in five Americans could be 65 years of age in the United States by the year 2050, which in turn creates a large population prone to abuse and exploitation; and

Whereas, Criminal investigations of offenders who steal from impaired seniors are often closed because prosecutors are faced with cognitively impaired victims who are exploited in places with no or few witnesses, and whose impairment renders them incompetent to testify in court; and

Whereas, Those accused of such exploitation often claim that property or monies acquired are willingly gifted; and

Whereas, In order to confront this situation, the victims of this crime, the elderly who are mentally disabled and mentally incapacitated, must be further defined within the penal code as a class so that prosecutors can more readily bring charges against their perpetrators; and

Whereas, Not all who assist the elderly in their financial matters do so with exploitive intent; this legislation allows those acting in good faith to use an affirmative defense, thereby excluding them from prosecution if the value of property received when assisting an impaired person is equal to the benefit realized by the impaired person; and

Whereas, The introductions of bills A. 02851 and S. 0379 in the New York State Legislature were recommended by the New York State District Attorneys Association's Elder Abuse subcommittee in order to address the abuse of elderly citizens; and

Whereas, District Attorney offices in the City of New York have experienced many cases where seniors have been exploited by people who take advantage of their diminished mental capacity; and

Whereas, This legislation further clarifies that the wrongful taking, obtaining or withholding of property from a victim who is mentally disabled or mentally incapacitated is a criminal act and that a victim's mental capacity or lack thereof, while not specifically an element of the larceny statute, should be assessed in determining whether there was a wrongful taking of property; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass A.02851 and S.03279 which amend the New York State Penal Law to create the crime of financial exploitation of the elderly.

LS#1260

[1013]