



Legislation Text

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Res. No. 84

Resolution calling upon the New York State Legislature to increase the punishment for endangering the welfare of a child or a mentally or physically challenged person and to designate these crimes as felonies.

By Council Members Vallone Jr., Addabbo Jr., Avella, Comrie, Fidler, Gentile, Katz, Liu, Lopez, Monserrate, Nelson, Recchia Jr., Sanders Jr., Seabrook, Sears, Weprin, Boyland, Moskowitz and Gennaro

Whereas, A central tenet of a just society is the care and protection of those who are least able to fend for themselves; and

Whereas, In keeping with this principle, there are numerous state laws protecting children, the mentally and physically challenged, and the elderly; and

Whereas, The punishments for abusing these most vulnerable of New Yorkers vary greatly; and

Whereas, Pursuant to Penal Law §§ 260.32 and 260.34, a caregiver who injures a vulnerable elderly person may be charged with a felony and punished by up to seven years of imprisonment; and

Whereas, In contrast, pursuant to Penal Law §§ 260.10 and 260.25, a person may be guilty of endangering the welfare of a child or a mentally or physically challenged person when he or she acts in a manner “likely to be injurious to the physical, mental or moral welfare” or a child or mentally or physically challenged person; such crime is only a misdemeanor and punished by less than one year of imprisonment; and

Whereas, When the State Legislature enacted the crime of endangering the welfare of a vulnerable elderly person in 1998, it essentially raised the penalty classification for assault of a vulnerable elderly person by a caregiver from a misdemeanor to a felony; and

Whereas, According to the Governor’s statement in support of Penal Law § 260.34, “We owe a special duty of care to our elderly and disabled citizens. Since they are not fully able to protect themselves, our

criminal laws must ensure that those who prey on the elderly and infirm face appropriately severe punishment for their despicable acts of abuse;” and

Whereas, There is no principled distinction between abusing a vulnerable elderly person and abusing a child or a mentally or physically challenged person; and

Whereas, The State Legislature, as it did with vulnerable elderly persons, should raise the penalty classification for assaulting a child or a mentally or physically challenged person from a misdemeanor to a felony; and

Whereas, Abusing a child or a mentally or physically challenged person is a horrible crime that should be treated as a felony with the potential for more than one year of imprisonment; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to increase the punishment for endangering the welfare of a child or a mentally or physically challenged person and to designate these crimes as felonies.