



## Legislation Text

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### Res. No. 106

Resolution calling upon the New York State Legislature to increase the punishment for endangering the welfare of a child and to designate this crime as a felony.

By Council Members Vallone Jr., Fidler, Gentile, Mark-Viverito, Nelson and Liu

Whereas, A central tenet of a just society is the care and protection of those who are least able to take care of 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” of 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, As the horrific case of Nixzmary Brown makes clear, the law must allow law enforcement to take action to protect children before they suffer serious injury or death; and

Whereas, Currently, prosecutors and police often see cases in which minor injuries are inflicted upon a child, sometimes over and over again for months or years, yet if prosecutors cannot prove the infliction of “serious physical injury”, as narrowly defined under the current Penal Law, only misdemeanor charges may be

brought; and

Whereas, As stated by Queens DA Richard Brown, “New York needs to do more to provide these children with the chance to grow into adulthood-and not become grim statistics...[prosecutors] need felony sanctions for such patterns of abuse and cruel maltreatment to punish and deter such conduct”; and

Whereas, The State Legislature 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 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 and to designate these crimes as felonies.

Res 84/2004  
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