



Legislation Text

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Res. No. 108

Resolution calling on the New York State Legislature to create the new crime of aggravated murder of a child, which should mandate a sentence of life without parole.

By Council Members Vallone Jr., Gennaro, Gentile, Nelson, Recchia Jr., Liu and Oddo

Whereas, The torture and death of Nixzmary Brown at the hands of her parents highlights the inadequate punishment under current law for such heinous crimes; and

Whereas, Children are the most vulnerable of our citizens who deserve special protection from perpetrators and potential perpetrators of crimes; and

Whereas, Parents and legal guardians have been entrusted with the responsibility of providing and caring for children, and when this relationship of trust is violated through torture and death of the child, only life imprisonment is appropriate; and

Whereas, Under current law, in cases of horrific child abuse that results in death, prosecutors may charge murder in the first degree, but must demonstrate that the defendant “acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim”; torture, under the statute, means the intentional and depraved infliction of extreme physical pain, which was relished by the defendant; and

Whereas, As Brooklyn DA Charles Hynes indicates, this proof “restricts the charges even in cases as horrendous as Nixzmary’s where there is overwhelming evidence of long-term, sadistic abuse resulting in her death”; and

Whereas, To remedy this gap in punishment, the State Legislature should create a separate Class A-1 felony, aggravated murder of a child, which requires proof that the parent or guardian intentionally caused the

child's death, and that the child was less than 18; and

Whereas, In addition, persons convicted of such a heinous crime should not be free to walk the streets again, and this new crime should carry a sentence of life imprisonment without parole; and

Whereas, This appropriate and just punishment is warranted for those caregivers who would so callously take the life of a child; now, therefore, be it

Resolved, That the Council of the city of New York calls on the New York State Legislature to create the new crime of aggravated murder of a child, which should mandate a sentence of life without parole.

TB
LS#138