



## Legislation Text

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**File #:** Res 1423-2008, **Version:** \*

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### Res. No. 1423

Resolution calling on the New York State Assembly to pass A.3640-A, which would amend the Criminal Procedure Law to allow the submission of business records by affidavit without the need for live testimony by the custodian of records in grand jury proceedings.

By Council Members Vallone Jr., Gentile and Nelson

Whereas, Present day technology allows businesses to keep their records on electronic file, which are often maintained on centralized databases that can be situated anywhere across the country; and

Whereas, These data files may consist of a variety of records ranging from credit card transactions to cell phone subscriber records to internet purchases, which can be easily accessed and sent electronically at virtually no cost to the individual and/or state; and

Whereas, Without this amendment to the Criminal Procedure Law, witnesses must appear in person before the court to submit relevant documents into evidence; and

Whereas, There are instances when witnesses are unable to appear before a grand jury due to extreme travel expenses; and

Whereas, Requiring a witness to physically submit business records and relevant documents into evidence before a grand jury puts a strain on the state's justice system and places an unnecessary burden upon prosecutors attempting to hold offenders accountable for, among other crimes, financial crimes against the elderly; and

Whereas, A.3640-A, currently pending in the New York State Assembly (Assembly), seeks to address these issues and provide better outcomes for victims of fraud through the admission of business records, via affidavit, into evidence in grand jury proceedings; and

Whereas; S.1977-A, a companion bill to A.3640-A, was passed by the New York State Senate on March 18, 2008 and sent to the Assembly on the same date; and

Whereas, The admission of business records by affidavit is already allowed in other states, such as South Carolina, Texas, New Jersey, Michigan, New Mexico, California, and Missouri; and

Whereas, Admitting business records by affidavit would put precisely the same supporting information before grand jurors that must presently be elicited through a custodian of records' physical testimony before a grand jury; and

Whereas, A.3640-A in no way expands the prosecutor's authority to introduce business records which cannot currently be introduced into evidence; and

Whereas, Amending section 190.30 of the Criminal Procedure Law to include the submission of business records by affidavit in grand jury proceedings would decrease the travel cost to witnesses as well as the cost to the state and would assist in the prosecution for those who financially exploit, among others, the elderly; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Assembly to pass A.3640-A, which would amend the Criminal Procedure Law to allow the submission of business records by affidavit without the need for live testimony by the custodian of records in grand jury proceedings.

WJH  
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