



Legislation Text

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**File #:** Res 0897-2007, **Version:** \*

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Res. No. 897

Resolution calling upon the State Legislature to pass Assembly bill A.3763 and Senate bill S.3359, which would amend the criminal procedure law to enable judges, if so requested, to instruct juries in criminal proceedings to disregard appeals made to bias and prejudice through courtroom tactics such as “panic strategies.”

By Council Members Mendez, Comrie and James

Whereas, It is the right of every person regardless of actual or perceived race, color, national origin, ancestry, gender, religion, religious practice, age, disability, gender identity or gender expression, or sexual orientation, or association with a person or group with these actual or perceived characteristics, to be secure and protected from fear, intimidation, and physical harm caused by the actions of violent groups and individuals; and

Whereas, It is against public policy for members of the judiciary or lawyers in judicial proceedings to exhibit bias toward a crime victim based on his or her actual or perceived characteristics such as race, color, national origin, ancestry, gender, religion, religious practice, age, disability, gender identity or gender expression, or sexual orientation; and

Whereas, “Panic strategies” appeal to bias and stereotypes that may be held by juries by attempting to explain a defendant’s violent actions or emotional reactions as reasonable based on the knowledge or discovery of the fact that the victim possess one or more of the characteristics listed above or associates with a person or group with one or more of the characteristics listed above; and

Whereas, “Panic strategies” encourage juries to decide cases based on bias and prejudice rather than on the facts and laws involved in a case; and

Whereas, The use of so-called "panic strategies" by defendants in criminal trials opens the door for bias

against victims based on one or more of the characteristics listed above or an association with a person or group with one or more of those characteristics; and

Whereas, It is against public policy for a defendant to be acquitted of a charged offense or convicted of a lesser included offense based upon an appeal to the societal bias that may be possessed by members of a jury; and

Whereas, Assembly bill A.3763 and Senate bill S.3359 would amend the criminal procedure law to enable judges in criminal proceedings, if a party so requests, to instruct juries to disregard appeals made to bias and prejudice through courtroom tactics such as “panic strategies;” and

Whereas, Both A.3763 and S.3359 were modeled on the "Gwen Araujo Justice for Victims Act," signed into law in California in 2006 and enacted following the murder of a transgender teenager because the defendants in her murder trial attempted to employ a panic strategy defense as justification for reducing the charges; and

Whereas, No statute in New York currently addresses the use of panic defenses or other strategies that attempt to convince juries that criminal actions can be reasonable responses to characteristics of the victim, such as his or her race, national origin, sexual orientation, gender identify or gender expression, among others; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State Legislature to pass Assembly bill A.3763 and Senate bill S.3359, which would amend the criminal procedure law to enable judges, if so requested, to instruct juries in criminal proceedings to disregard appeals made to bias and prejudice through courtroom tactics such as “panic strategies.”

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