



Legislation Text

File #: Res 1421-2008, **Version:** *

Res. No. 1421

Resolution calling upon the New York State Assembly to pass A.0305, which would amend the New York State Penal Law to include the financial exploitation of the elderly or disabled within the crime of larceny.

By Council Members Vallone Jr., Brewer, Felder, Fidler, Gentile, Koppell, Liu, Nelson, Sanders Jr., Vann and White Jr.

Whereas, According to a study released in 2005 by the National Center on Elder Abuse, there may be over five million elder financial abuse victims each year in the United States; and

Whereas, The National Conference of State Legislatures reports that as many as one in five Americans could be 65 years of age or older in the United States by the year 2050, which in turn creates a large population vulnerable to abuse and exploitation; and

Whereas, Criminal investigations of offenders who steal from impaired seniors are often closed because prosecutors are faced with cognitively impaired victims who are exploited in places with no or few witnesses, and whose impairment renders them incompetent to testify in court; and

Whereas, Those accused of such exploitation often claim that property or monies acquired are willingly gifted; and

Whereas, In order to confront this situation, the victims of this crime, the elderly who are mentally disabled and/or mentally incapacitated, must be further defined within the penal law as a class so that prosecutors can more readily bring charges against their abusers; and

Whereas, A.0305, currently pending in the New York State Assembly, seeks to address these concerns regarding financial exploitation of the elderly or disabled by amending the penal law and making it a crime for a person in a position of trust to compel or induce an elderly or disabled person to deliver property by means of

fraud, false promises, extortion, or intimidation; and

Whereas, A.0305 recognizes that not all who assist the elderly in their financial matters do so with exploitive intent; and

Whereas, A.0305 does not intend to impose criminal liability upon any person who seeks to assist the elderly in good faith in the management of his or her property; and

Whereas, Prosecutors in New York have not only seen an increasing number of elder financial abuse cases, but have also found that they cannot adequately prosecute these criminals because present larceny statutes do not specifically define this type of theft; and

Whereas, This legislation further clarifies that the wrongful taking, obtaining or withholding of property from a victim who is mentally disabled or mentally incapacitated is a criminal act and that a victim's mental capacity or lack thereof, while not specifically an element of the larceny statute, should be assessed in determining whether there was a wrongful taking of property; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Assembly to pass A.0305, which would amend the New York State Penal Law to include the financial exploitation of the elderly or disabled within the crime of larceny.

WJH
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