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Committee Assignment: Senate Liberty 4

Bill #:SL-29

Sponsors:

Fiona Guida Gabby Prisco & Lorelai Guida

An Act To

Amend section 260.32 of New York State Penal Law by changing the punishment for endangering the welfare of a vulnerable elderly person from a Class E Felony to a Class C Felony.

The People of the State of New York, represented in the Senate and Assembly do enact as follows:

Purpose

The bill sponsors want to raise the penalty for elderly abuse from a class E felony to a class C felony.

Summary of Provisions

Section 1: Definitions

Class E Felony: Is punishable with no Jail and Probation or Jail for up to 4 years.
Elder Abuse: Is not limited to any act or omission which results in the infliction of physical pain or injury, or the infliction of mental anguish that requires medical attention or the deprivation by a caretaker of services which are necessary to maintain physical or mental health. A class C felony: Is punishable by up to five years to fifteen years imprisonment, and a fine of up to \$10,000, or both.

Section 2:

§ 260.32 Endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the second degree.

A person is guilty of endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the second degree when, being a caregiver for a vulnerable elderly person, or an incompetent or physically disabled person:

1. With intent to cause physical injury to such person, he or she causes such injury to such person; or

2. He or she recklessly causes physical injury to such person; or

3. With criminal negligence, he or she causes physical injury to such person by means of a deadly weapon or a dangerous instrument; or

4. He or she subjects such person to sexual contact without the latter's consent. Lack of consent under this subdivision results from forcible compulsion or incapacity to consent, as those terms are defined in article one hundred thirty of this chapter, or any other circumstances in which the vulnerable elderly person, or an incompetent or physically disabled person does not expressly or impliedly acquiesce in the caregiver's conduct. In any prosecution under this subdivision in



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which the victim's alleged lack of consent results solely from incapacity to consent because of the victim's mental disability or mental incapacity, the provisions of section 130.16 of this chapter shall apply. In addition, in any prosecution under this subdivision in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

Endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the second degree is a ~~class E felony~~ Class C felony

Justification

It's important to protect the elderly people of New York. Did you know about 450,000 adults who are 60 years of age or older suffer from some kind of abuse or neglect in home settings in 2012. The Most common type of abuse reported was physical abuse. Most recent study indicates that 70% of elderly suffered from at least 1 episode from the last year. Senior citizens can't protect themselves from a threat the way younger people can.

Fiscal Implications

Potential violators of this law will be incarcerated and the state will have to pay for the violators stay in prison. Incarceration costs an average of more than \$31,000 per inmate.

Environmental Implications

Elderly citizens will be and feel safer and secure in their community, home, and their nursing facilities. Communities will cater more to the safety of senior citizens.

Effective Date

This bill will go into effect 1 year after the passage of this bill.