



NEW YORK STATE SENATOR

Patrick M. Gallivan

Senator Gallivan Announces Senate Passes Jocelyn's Law for a Third Time

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ISSUE:

- [law enforcement](#)
- [Public Safety](#)



Senator Patrick M. Gallivan (R-C-I, Elma) announces the Senate has once again passed “Jocelyn’s Law” which would elevate the crime of vehicular manslaughter to aggravated vehicular homicide when the perpetrator has been convicted of driving under the influence 3 previous times. The bill (S-404) is named for Jocelyn Elberson, who along with Sheila Pelton, was killed when a man operating a motorcycle while under the influence struck them as they walked along a bike path in November 2012 . The motorcycle driver had 4 previous DWI arrests in New York, a DWI in Florida and another in Ohio.

The measure was approved in the Senate in 2014 and 2015, but stalled in the Assembly each time.

“This is the third consecutive year the Senate has passed this important legislation and it’s time for the Assembly to do the same,” Gallivan said. “Those who repeatedly choose to drive under the influence of alcohol or drugs show a blatant disregard for the law and when their reckless action results in the death of others, they should face the harshest penalties possible.”

Under current law, a driver with one previous conviction can be charged with vehicular manslaughter in the first degree, but there is no additional sentencing enhancement for those individuals who repeatedly operate motor vehicles while under the influence.

The legislation has been sent to the Assembly.

Elberson, 25, and Pelton, 81, were killed November 11, 2012 as they walked along a bike path in the Town of Amherst. Pelton’s husband was seriously injured. The driver, David Smith, is serving a sentence of four to 12 years in state prison.

related legislation

[2015-S404](#)

-
- Introduced
 - - In Committee Assembly
 - In Committee Senate
 - - On Floor Calendar Assembly
 - On Floor Calendar Senate
 - - Passed Assembly
 - Passed Senate
 - Delivered to Governor
 - Signed By Governor

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[Relates to aggravated vehicular homicide](#)

December 24, 2014

In Assembly Committee

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Do you support this bill?