



NEW YORK STATE SENATOR

Alessandra Biaggi

SENATOR BIAGGI AND ASSEMBLYMEMBER HEVESI BUILD ON GAINS OF 2019, AND INTRODUCE THREE BILLS TO SUPPORT SURVIVORS OF CHILD ABUSE AND HOLD PERPETRATORS ACCOUNTABLE IN COURT

ALESSANDRA BIAGGI January 23, 2020

ALBANY, NY – State Senator Alessandra Biaggi and Assemblymember Andrew Hevesi have introduced three pieces of legislation to support survivors of child abuse seek justice, and create meaningful accountability for individuals who endanger the welfare of children.

[S7247/A9103](#) amends the Criminal Procedure Law to allow evidence of how a sex crime victim first disclosed the abuse regardless of when the disclosure was made relative to the crime. Unlike 48 other states, New York currently bars testimony of first-outcry from being admitted if the disclosure was delayed.

[S7248/ A9101](#) amends the crimes of sexual conduct against a child in the first and second degrees and predatory sexual assault against a child to include all sexual conduct against a child committed prior to the child's 17th birthday. Under current law, prosecutors have to charge different offenses based on the age of the child, despite the fact that abuse often occurs across age groups for which different crimes – with different evidence standards – exist.

[S7249/ A9102](#) amends the Penal Code to create a class E felony, establishing the crime of endangering the welfare of a child in the first degree. The bill addresses extraordinary forms of child abuse that often cannot be adequately charged under existing law, including risks of serious injury and protracted impairment, conduct resulting in physical injury to young children, and recidivist abusers.

State Senator Alessandra Biaggi (D-Bronx/Westchester) issued the following statement:

“As a survivor of childhood sexual abuse, I have fought hard to empower survivors and create meaningful accountability for perpetrators. These bills build on critical legislation passed last year in a continued effort to protect children from harm, ensure that our laws reflect the reality of trauma, and make it easier for victims of child abuse to seek justice in our court system.

Speaking from my own experience, many survivors of assault wait months or even years before speaking out about the abuse they endured. If they decide to pursue criminal charges, evidence about how and when they disclosed their abuse is critical. By changing the rules of evidence to allow testimony about a survivor’s disclosure regardless of when it occurred, New York will make it easier for survivors of child sexual assault to press charges. This legislation will benefit many survivors pursuing criminal cases through the Child Victims Act who are coming forward for the first time, years after the abuse occurred.

Tragically, survivors of child sexual abuse are often repeatedly victimized over multiple years. New York’s current statute does not recognize the ongoing nature of many of these crimes, and imposes arbitrary age boundaries that often require prosecutors to bring multiple charges. This legislation creates a new course of conduct offense to capture all of the abuse that occurred over a period of time as a single charge. This will protect survivors from the emotionally devastating requirement of recalling the exact dates of all the abuse

they endured, and streamline the process of pursuing child sexual abuse cases.

Survivors of child abuse often face lifelong emotional and physical consequences — it is critical that our laws allow for meaningful accountability for perpetrators of such violence. In contrast to 37 other states, New York does not have a felony-level charge for endangering the welfare of a child. As a result, our laws fail to adequately address some of the most egregious cases of abuse. By creating a felony charge for endangering the welfare of a child, this bill will ensure that New York State law appropriately addresses the most serious cases of child abuse.

I remain committed to strengthening our laws to protect survivors of child abuse and look forward to advocating for these pieces of legislation with Assembly sponsor Andrew Hevesi.”

Assemblyman Andrew Hevesi (A.D. 28) said, “This legislation will help survivors overcome their trauma, help stop the cycle of abuse once it has begun, and ensure that survivors have an opportunity to pursue criminal charges when they are ready. Specifically:

S7247/ A9103 will permit a survivor’s first outcry to be admitted as evidence in a criminal proceeding, even if the initial disclosure of abuse was delayed. This will ultimately allow a survivor to pursue charges when they are ready – both mentally and emotionally – to do so.

S7248/ A9101 will ensure that all sexual conduct committed against a child prior to their 17th birthday is included in charges of first- and second-degree predatory assault against a child. Current law requires that prosecutors file different charges for separate offenses, depending on the age of a child when a crime occurred. By taking all charges into consideration we will streamline the criminal justice process and hold purveyors fully accountable.

S7249/ A9102 will make the crime of endangering the welfare of a child in the first degree a class E felony. This addresses a flaw in current statute that prevents certain forms of child

abuse – including risk of serious injury and impairment; conduct resulting in physical injury to young children; and recidivist abusers – from being adequately prosecuted in court proceedings.

These bills will empower survivors and bring justice upon purveyors of child sexual exploitation and abuse. Thank you to Senator Alessandra Biaggi and our advocate partners for your commitment towards helping survivors in New York.”

"Prevent Child Abuse NY applauds Senator Biaggi and Assembly Member Hevesi for working to close the gaps in existing provisions that currently allow abusers to fall through the cracks. It should be easier to protect children (and adults) from harm. We hope that this package of legislation helps keep people safer from all kinds of abuse,” said **Tim Hathaway, Executive Director of Prevent Child Abuse NY.**

“Many survivors currently find the process of seeking justice against their abusers frustrating because the law, and by extension the attitudes of the justice system toward their experiences, doesn’t seem to have an understanding of the realities of the nature of abuse. Child sexual abuse and maltreatment is often ongoing, and, from the perspective of survivors, not limited to isolated acts, but part of a constant malicious presence in their lives, whether an act of abuse is occurring in the moment or whether the threat of it looms around the corner. These reforms take a trauma-informed approach to the acknowledgement and prosecution of these crimes, and I wholeheartedly support and commend Senator Biaggi and Assemblymember Hevesi’s efforts,” said **Asher Lovy, survivor and Director of Community Organizing for ZA’AKAH.**

“Safe Horizon, the nation’s largest victim services organization, commends Senator Alessandra Biaggi and Assembly Member Andrew Hevesi for proposing legislation to allow evidence of a victim’s disclosure of sexual abuse regardless of when the disclosure was made relative to the abuse. Currently, survivors of sexual violence or abuse must make prompt

disclosures to authorities in order for this evidence to be used in a criminal proceeding. The fact that a survivor may have chosen to disclose the sexual abuse to a friend or family member before deciding to report to law enforcement or a prosecutor would inexplicably be ruled inadmissible as evidence of the assault. This law is dramatically out of step with everything the field of victim services has learned about the way in which trauma affects survivors and why he or she may be unable to report a crime right away. We saw this most recently with the Child Victims Act, which expressly acknowledged that survivors of childhood sexual abuse may be too traumatized or fearful to report these crimes. We thank Senator Biaggi and Assemblymember Hevesi for recognizing this deficiency in New York's law, and we urge the full legislature to pass S.7427 as soon as possible," said **Michael Polenberg, Vice President of Government Affairs of Safe Horizon.**

"The 3 bills introduced by Senator Biaggi/Assemblymember Hevesi today will transform NY's archaic child abuse laws. For too long, New York laws have failed to hold offenders accountable and protect the most vulnerable of our children. I applaud my fellow survivor Sen. Biaggi for introducing these 3 pieces of legislation to get predators off our streets and protect New York kids. I am proud to stand with Senator Biaggi to make New York streets safer and look forward to working with her on more important legislation to empower survivors," said **Gary A. Greenberg, Founder ProtectNYKids Inc.**

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RELATED LEGISLATION

2019-S7247

-
- 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
 -

Provides for the admissibility of a victim's outcry and disclosures in cases of sexual abuse

January 14, 2020

In Senate Committee [Codes](#)

Sponsored by [Alessandra Biaggi](#)

Do you support this bill?

2019-S7248

- 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
-

Includes instances of sexual conduct against a child less than seventeen years of age to certain sex offenses

January 14, 2020

In Senate Committee [Codes](#)

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Do you support this bill?

2019-S7249

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

Establishes the crime of endangering the welfare of a child in the first degree

January 14, 2020

In Senate Committee [Codes](#)

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Do you support this bill?