

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATOR WALTER**

Re: Amending New York State Penal Law §125.27 to include cold blooded, pre-meditated murder which includes a discretionary sentence of life imprisonment without the possibility of parole upon conviction of such a crime

WHEREAS, New York State Penal Law §125.27 outlines the crimes which are eligible for prosecution of a charge of murder in the first degree; and

WHEREAS, the statute outlines thirteen separate categories of murder which would qualify for a such a prosecution; and

WHEREAS, the statute does not include a commission of murder in which the murderer acted in a cold blooded and premeditated manner, with excessive barbarism; and

WHEREAS, recently, the conviction of Muzzammil Hassan of second degree murder reveals a glaring flaw in the current penal law; and

WHEREAS, a first degree murder conviction was not possible and not pursued, because the crime did not fit into any of the thirteen categories of first degree murder; and

WHEREAS, the facts of the present case demonstrate the need to include such a cold blooded, pre-meditated murder into the definition of murder in the first degree; and

WHEREAS, while murder in the first degree and murder in the second degree are both class A-1 felonies, the minimum sentence for conviction of each crime is different; and

WHEREAS, a first degree murder conviction brings a minimum sentence of twenty-five years in prison, pursuant to New York State Penal Law §70.00 and a maximum of life without parole; and

WHEREAS, a second degree murder conviction brings a minimum sentence of only fifteen years and a maximum of 25 years to life; and

WHEREAS, as such, creating a category of murder in the first degree to include cold blooded, pre-meditated murders with aggravating factors, such as excessive barbarism, would have the immediate effect of increasing the minimum sentence for such a murderer.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature requests the New York State Legislature to amend New York State Penal Law §125.27, murder in the first degree, to include a category for cold blooded, pre-meditated murder accompanied by aggravating factors, such as excessive barbarism; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Assembly Speaker Sheldon Silver, Senate Majority Leader Dean Skelos and the local delegation to the New York State Legislature.

Fiscal Impact: None