



**OFFICE OF THE DISTRICT ATTORNEY
NASSAU COUNTY**

FOR IMMEDIATE RELEASE

**DISTRICT ATTORNEY SINGAS PROPOSES
LEGISLATION TO CRIMINALIZE HARASSMENT FOR
SEXUAL GRATIFICATION**

Mineola, NY – Nassau County District Attorney Madeline Singas today proposed legislation to strengthen laws that protect victims of sexually-motivated violence. If enacted, the bill will fill a gap in state law that precludes a prosecutor from charging a perpetrator who slaps, punches, shoves, or kicks another person, without consent, for sexual gratification, when evidence of injury is insufficient to meet New York’s statutory and case law definitions of physical injury.

“This legislation fills a gap in the law that is essential to properly sanction sexually-motivated violence that may leave the victims with deep emotional wounds, even if they do not sustain physical injuries as defined under New York penal law,” DA Singas said. “This new misdemeanor-level offense will afford law enforcement an additional tool to protect victims of domestic abuse, and I encourage the legislature to pass this bill next session.”

The text of the bill reads:

N.Y. Penal Law § 240.xx Sexual harassment

A person is guilty of sexual harassment when, with the purpose of sexual arousal or gratification, and without consent, he or she slaps, strikes, shoves, or kicks such other person.

Sexual harassment is a class A misdemeanor.

As a class A misdemeanor, the law would be subject to a two-year statute of limitations and those convicted under the proposed bill could face up to one year in jail.

Under current New York law a slap, shove, or kick that does not cause physical injury is chargeable as the non-criminal violation of Harassment in the Third Degree *only if* the offender’s intent is to “alarm, harass, or annoy” the victim. The violation cannot be charged in circumstances where the offender’s intent is his or her sexual arousal or gratification. If such conduct causes physical injury, as defined under New York law, a criminal charge is available,¹ however case law provides that physical injury requires proof of “more than mere bruises, bumps, abrasions, or superficial cuts,”² or proof the victim suffered “substantial pain.”

¹ N.Y. Pen. L. § 120.00, Assault in the third degree.

² 6 N.Y. Prac., Criminal Law § 5:3 (4th ed.). *See also* People v. Case, 150 A.D.3d 1634 (4th Dept. 2017) (one centimeter bruise on arm and swollen neck not sufficient); *People v. Boney*, 119 A.D.3d 701 (2d Dept. 2014) (bruised and splinted

This proposal provides for a criminal charge when the abusive conduct causes no injury, injuries that do not rise to the legal definition of “physical injury,” or injuries that cannot be proven beyond reasonable doubt.

Singas sent the proposed legislation to New York’s legislative leaders today.

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finger, without evidence that its use was limited for any length of time, not sufficient); *In re Jose B.*, 47 A.D.3d 461 (1st Dept. 2008) (minor soft tissue trauma from punches insufficient); *People v. Williams*, 48 A.D.3d 1115 (3d Dept. 2007) (bruises and swelling of jaw that subsided after a couple of days insufficient); *People v. Carney*, 179 A.D.2d 818 (2d Dept. 1992)(bruises on arm and neck insufficient).