

STATE OF NEW YORK

1766

2017-2018 Regular Sessions

IN ASSEMBLY

January 13, 2017

Introduced by M. of A. MOYA -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to including a scheme to defraud as a specified offense as a hate crime and including immigration status as a category a person can be targeted for

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

1 Section 1. Section 485.05 of the penal law, as added by chapter 107 of
2 the laws of 2000, subdivision 3 as amended by chapter 405 of the laws of
3 2010, is amended to read as follows:

4 § 485.05 Hate crimes.

5 1. A person commits a hate crime when he or she commits a specified
6 offense and either:

7 (a) intentionally selects the person against whom the offense is
8 committed or intended to be committed in whole or in substantial part
9 because of a belief or perception regarding the race, color, national
10 origin, ancestry, gender, religion, religious practice, immigration
11 status, age, disability or sexual orientation of a person, regardless of
12 whether the belief or perception is correct, or

13 (b) intentionally commits the act or acts constituting the offense in
14 whole or in substantial part because of a belief or perception regarding
15 the race, color, national origin, ancestry, gender, religion, religious
16 practice, immigration status, age, disability or sexual orientation of a
17 person, regardless of whether the belief or perception is correct.

18 2. Proof of race, color, national origin, ancestry, gender, religion,
19 religious practice, immigration status, age, disability or sexual orien-
20 tation of the defendant, the victim or of both the defendant and the
21 victim does not, by itself, constitute legally sufficient evidence
22 satisfying the people's burden under paragraph (a) or (b) of subdivision
23 one of this section.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 3. A "specified offense" is an offense defined by any of the following
2 provisions of this chapter: section 120.00 (assault in the third
3 degree); section 120.05 (assault in the second degree); section 120.10
4 (assault in the first degree); section 120.12 (aggravated assault upon a
5 person less than eleven years old); section 120.13 (menacing in the
6 first degree); section 120.14 (menacing in the second degree); section
7 120.15 (menacing in the third degree); section 120.20 (reckless endan-
8 germent in the second degree); section 120.25 (reckless endangerment in
9 the first degree); section 121.12 (strangulation in the second degree);
10 section 121.13 (strangulation in the first degree); subdivision one of
11 section 125.15 (manslaughter in the second degree); subdivision one, two
12 or four of section 125.20 (manslaughter in the first degree); section
13 125.25 (murder in the second degree); section 120.45 (stalking in the
14 fourth degree); section 120.50 (stalking in the third degree); section
15 120.55 (stalking in the second degree); section 120.60 (stalking in the
16 first degree); subdivision one of section 130.35 (rape in the first
17 degree); subdivision one of section 130.50 (criminal sexual act in the
18 first degree); subdivision one of section 130.65 (sexual abuse in the
19 first degree); paragraph (a) of subdivision one of section 130.67
20 (aggravated sexual abuse in the second degree); paragraph (a) of subdi-
21 vision one of section 130.70 (aggravated sexual abuse in the first
22 degree); section 135.05 (unlawful imprisonment in the second degree);
23 section 135.10 (unlawful imprisonment in the first degree); section
24 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in
25 the first degree); section 135.60 (coercion in the second degree);
26 section 135.65 (coercion in the first degree); section 140.10 (criminal
27 trespass in the third degree); section 140.15 (criminal trespass in the
28 second degree); section 140.17 (criminal trespass in the first degree);
29 section 140.20 (burglary in the third degree); section 140.25 (burglary
30 in the second degree); section 140.30 (burglary in the first degree);
31 section 145.00 (criminal mischief in the fourth degree); section 145.05
32 (criminal mischief in the third degree); section 145.10 (criminal
33 mischief in the second degree); section 145.12 (criminal mischief in the
34 first degree); section 150.05 (arson in the fourth degree); section
35 150.10 (arson in the third degree); section 150.15 (arson in the second
36 degree); section 150.20 (arson in the first degree); section 155.25
37 (petit larceny); section 155.30 (grand larceny in the fourth degree);
38 section 155.35 (grand larceny in the third degree); section 155.40
39 (grand larceny in the second degree); section 155.42 (grand larceny in
40 the first degree); section 160.05 (robbery in the third degree); section
41 160.10 (robbery in the second degree); section 160.15 (robbery in the
42 first degree); section 190.60 (scheme to defraud in the second degree);
43 section 190.65 (scheme to defraud in the first degree); section 240.25
44 (harassment in the first degree); subdivision one, two or four of
45 section 240.30 (aggravated harassment in the second degree); or any
46 attempt or conspiracy to commit any of the foregoing offenses.

47 4. For purposes of this section:

48 (a) the term "age" means sixty years old or more;

49 (b) the term "disability" means a physical or mental impairment that
50 substantially limits a major life activity.

51 § 2. This act shall take effect immediately.