

# STATE OF NEW YORK

5852

2017-2018 Regular Sessions

## IN ASSEMBLY

February 16, 2017

Introduced by M. of A. CASTORINA, BYRNE, CROUCH, DiPIETRO, GIGLIO, GRAF, FINCH, FRIEND, LUPINACCI, McDONOUGH, MURRAY, ORTIZ, RAIA, WALSH -- Multi-Sponsored by -- M. of A. LOPEZ -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to designating offenses against law enforcement officers as hate crimes

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

- 1 Section 1. Subdivisions 1, 2 and 4 of section 485.05 of the penal law,  
2 as added by chapter 107 of the laws of 2000, are amended to read as  
3 follows:
- 4 1. A person commits a hate crime when he or she commits a specified  
5 offense and either:
- 6 (a) intentionally selects the person against whom the offense is  
7 committed or intended to be committed in whole or in substantial part  
8 because of a belief or perception regarding the race, color, national  
9 origin, ancestry, gender, religion, religious practice, age, disability,  
10 or because of actual or perceived employment as a law enforcement offi-  
11 cer, or sexual orientation of a person, regardless of whether the belief  
12 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, age, disability, or because of actual or perceived employment  
17 as a law enforcement officer, or sexual orientation of a person, regard-  
18 less of whether the belief or perception is correct.
- 19 2. Proof of race, color, national origin, ancestry, gender, religion,  
20 religious practice, age, disability, or because of actual or perceived  
21 employment as a law enforcement officer, or sexual orientation of the  
22 defendant, the victim or of both the defendant and the victim does not,  
23 by itself, constitute legally sufficient evidence satisfying the

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

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1 people's burden under paragraph (a) or (b) of subdivision one of this  
2 section.

3 4. For purposes of this section:

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

5 (b) the term "disability" means a physical or mental impairment that  
6 substantially limits a major life activity; and

7 (c) the term "law enforcement officer" means any active or retired  
8 city or state law enforcement officer, peace officer, sheriff, deputy  
9 sheriff, probation or parole officer, marshal, deputy, wildlife enforce-  
10 ment agency, state correctional officer, or commissioned agent of the  
11 department of corrections and community supervision, as well as any  
12 federal law enforcement officer or employee, whose permanent duties  
13 include making arrests, performing search and seizures, execution of  
14 criminal arrest warrants, execution of civil seizure warrants, any civil  
15 functions performed by sheriffs or deputy sheriffs, enforcement of penal  
16 or traffic laws, or the care, custody, control or supervision of  
17 inmates.

18 § 2. This act shall take effect immediately.