S T A T E O F N E W Y O R K

10128

I N A S S E M B L Y

June 16, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein, Lentol) -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the executive law, in relation to aggravated harassment in the second degree

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 240.30 of the penal law, as amended by chapter 510 of the laws of 2008, subdivision 4 as added and subdivisions 5 and 6 as renumbered by section 4 of part D of chapter 491 of the laws of 2012, is amended to read as follows:

S 240.30 Aggravated harassment in the second degree.

A person is guilty of aggravated harassment in the second degree when[, with intent to harass, annoy, threaten or alarm another person, he or she]:

1. [Either] WITH INTENT TO HARASS ANOTHER PERSON, THE ACTOR EITHER:

(a) communicates [with a person], anonymously or otherwise, by telephone, by [telegraph,] COMPUTER or ANY OTHER ELECTRONIC MEANS, OR by mail, or by transmitting or delivering any other form of [written] communication, [in a manner likely to cause annoyance or alarm] A THREAT TO CAUSE PHYSICAL HARM TO, OR UNLAWFUL HARM TO THE PROPERTY OF, SUCH PERSON, OR A MEMBER OF SUCH PERSON'S SAME FAMILY OR HOUSEHOLD AS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW, AND THE ACTOR KNOWS OR REASONABLY SHOULD KNOW THAT SUCH COMMUNICATION WILL CAUSE SUCH PERSON TO REASONABLY FEAR HARM TO SUCH PERSON'S PHYSICAL SAFETY OR PROPERTY, OR TO THE PHYSICAL SAFETY OR PROPERTY OF A MEMBER OF SUCH PERSON'S SAME FAMILY OR HOUSEHOLD; or

(b) causes a communication to be initiated [by mechanical or electronic means or otherwise with a person,] anonymously or otherwise, by telephone, by [telegraph,] COMPUTER or ANY OTHER ELECTRONIC MEANS, OR by mail, or by transmitting or delivering any other form of [written] communication, [in a manner likely to cause annoyance or alarm] A THREAT TO CAUSE PHYSICAL HARM TO, OR UNLAWFUL HARM TO THE PROPERTY OF, SUCH PERSON, A MEMBER OF SUCH PERSON'S SAME FAMILY OR HOUSEHOLD AS DEFINED IN

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

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SUBDIVISION ONE OF SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW, AND THE ACTOR KNOWS OR REASONABLY SHOULD KNOW THAT SUCH COMMUNICATION WILL CAUSE SUCH PERSON TO REASONABLY FEAR HARM TO SUCH PERSON'S PHYSICAL SAFETY OR PROPERTY, OR TO THE PHYSICAL SAFETY OR PROPERTY OF A MEMBER OF SUCH PERSON'S SAME FAMILY OR HOUSEHOLD; or

2. [Makes] WITH INTENT TO HARASS OR THREATEN ANOTHER PERSON, HE OR SHE MAKES a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or

3. [Strikes] WITH THE INTENT TO HARASS, ANNOY, THREATEN OR ALARM ANOTHER PERSON, HE OR SHE STRIKES, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or

4. [Strikes] WITH THE INTENT TO HARASS, ANNOY, THREATEN OR ALARM ANOTHER PERSON, HE OR SHE STRIKES, shoves, kicks or otherwise subjects another person to physical contact thereby causing physical injury to such person or to a family or household member of such person as defined in section 530.11 of the criminal procedure law[.]; OR

5. [Commits] HE OR SHE COMMITS the crime of harassment in the first degree and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years.

[6. For the purposes of subdivision one of this section, "form of written communication" shall include, but not be limited to, a recording as defined in subdivision six of section 275.00 of this part.]

Aggravated harassment in the second degree is a class A misdemeanor.

S 2. Subdivision 12 of section 631 of the executive law, as amended by chapter 534 of the laws of 2011, is amended to read as follows:

12. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of menacing in the second degree as defined in subdivision two or three of section 120.14 of the penal law, menacing in the first degree as defined in section 120.13 of the penal law, criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, harassment in the second degree as defined in subdivision two or three of section 240.26 of the penal law, harassment in the first degree as defined in section 240.25 of the penal law, aggravated harassment in the second degree as defined in subdivision [four] FIVE of section 240.30 of the penal law, aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, criminal contempt in the first degree as defined in paragraph (ii) or (iv) of subdivision (b) or subdivision (c) of section 215.51 of the penal law, or stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respectively, who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earning or support, the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of such crime, the unreimbursed cost for security devices to enhance the personal protection of such victim, transportation expenses incurred for necessary court expenses in connection with the prosecution of such crime, the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in

which the crime occurred, reasonable relocation expenses, and for occupational or job training.

S 3. This act shall take effect immediately.