

8212

I N S E N A T E

November 14, 2016

Introduced by Sens. AKSHAR, GOLDEN -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to designating offenses
against law enforcement officers, firefighters and emergency medical
services personnel as hate crimes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 (I) the race, color,
9 national origin, ancestry, gender, religion, religious practice, age,
10 disability or sexual orientation of a person OR (II) BECAUSE OF ACTUAL
11 OR PERCEIVED EMPLOYMENT AS A LAW ENFORCEMENT OFFICER, A FIREFIGHTER OR
12 AS EMERGENCY MEDICAL SERVICES PERSONNEL, regardless of whether the
13 belief or perception is correct, or

14 (b) intentionally commits the act or acts constituting the offense in
15 whole or in substantial part because of a belief or perception regarding
16 (I) the race, color, national origin, ancestry, gender, religion, reli-
17 gious practice, age, disability or sexual orientation of a person OR
18 (II) BECAUSE OF ACTUAL OR PERCEIVED EMPLOYMENT AS A LAW ENFORCEMENT
19 OFFICER, A FIREFIGHTER OR AS EMERGENCY MEDICAL SERVICES PERSONNEL,
20 regardless of whether the belief or perception is correct.

21 (C) PROVIDED, HOWEVER, SUBPARAGRAPH (II) OF PARAGRAPH (A) AND SUBPARA-
22 GRAPH (II) OF PARAGRAPH (B) OF THIS SUBDIVISION SHALL NOT APPLY WHERE
23 THE SPECIFIED OFFENSE IS COMMITTED BY AN INMATE IN A CORRECTIONAL FACIL-
24 ITY AGAINST A STATE CORRECTIONAL OFFICER OR FEDERAL LAW ENFORCEMENT
25 OFFICER OR EMPLOYEE WHOSE PERMANENT DUTIES INCLUDE THE CARE, CUSTODY,
26 CONTROL OR SUPERVISION OF INMATES.

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

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1 2. Proof of race, color, national origin, ancestry, gender, religion,
2 religious practice, age, disability or sexual orientation OR EMPLOYMENT
3 AS A LAW ENFORCEMENT OFFICER, A FIREFIGHTER OR AS EMERGENCY MEDICAL
4 SERVICES PERSONNEL of the defendant, the victim or of both the defendant
5 and the victim does not, by itself, constitute legally sufficient
6 evidence satisfying the people's burden under paragraph (a) or (b) of
7 subdivision one of this section.

8 4. For purposes of this section:

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

10 (b) the term "disability" means a physical or mental impairment that
11 substantially limits a major life activity[.];

12 (C) THE TERM "LAW ENFORCEMENT OFFICER" MEANS ANY ACTIVE OR RETIRED
13 CITY OR STATE LAW ENFORCEMENT OFFICER, PEACE OFFICER, SHERIFF, DEPUTY
14 SHERIFF, PROBATION OR PAROLE OFFICER, MARSHAL, DEPUTY, WILDLIFE ENFORCE-
15 MENT AGENCY, STATE CORRECTIONAL OFFICER, OR COMMISSIONED AGENT OF THE
16 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, AS WELL AS ANY
17 FEDERAL LAW ENFORCEMENT OFFICER OR EMPLOYEE, WHOSE PERMANENT DUTIES
18 INCLUDE MAKING ARRESTS, PERFORMING SEARCH AND SEIZURES, EXECUTION OF
19 CRIMINAL ARREST WARRANTS, EXECUTION OF CIVIL SEIZURE WARRANTS, ANY CIVIL
20 FUNCTIONS PERFORMED BY SHERIFFS OR DEPUTY SHERIFFS, ENFORCEMENT OF PENAL
21 OR TRAFFIC LAWS, OR THE CARE, CUSTODY, CONTROL OR SUPERVISION OF
22 INMATES;

23 (D) THE TERM "FIREFIGHTER" MEANS (I) ANY FIREFIGHTER REGULARLY
24 EMPLOYED BY A FIRE DEPARTMENT OF ANY MUNICIPALITY OF THE STATE OF NEW
25 YORK AND (II) ANY VOLUNTEER FIREFIGHTER AS DEFINED IN SUBDIVISION ONE OF
26 SECTION THREE OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW; AND

27 (E) THE TERM "EMERGENCY MEDICAL SERVICES PERSONNEL" MEANS THE PERSON-
28 NEL OF A SERVICE OR AGENCY, WHETHER PAID OR VOLUNTEER, ENGAGED IN
29 PROVIDING INITIAL EMERGENCY MEDICAL ASSISTANCE, INCLUDING BUT NOT LIMIT-
30 ED TO FIRST RESPONDERS, EMERGENCY MEDICAL TECHNICIANS AND ADVANCED EMER-
31 GENCY MEDICAL TECHNICIANS.

32 S 2. This act shall take effect immediately.