STATE OF NEW YORK

3956

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

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

AN ACT to amend the penal law, in relation to including the use of a governmental agency to harass a person within the crime of aggravated harassment in the first degree

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

Section 1. Section 240.31 of the penal law, as amended by chapter 49 of the laws of 2006, subdivisions 3 and 4 as amended and subdivision 5 as added by chapter 74 of the laws of 2008, is amended to read as follows:

§ 240.31 Aggravated harassment in the first degree.

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

1. Damages premises primarily used for religious purposes, or acquired pursuant to section six of the religious corporation law and maintained for purposes of religious instruction, and the damage to the premises exceeds fifty dollars; or

2. Commits the crime of aggravated harassment in the second degree in the manner proscribed by the provisions of subdivision three of section 240.30 of this article and has been previously convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of section 240.30 or he or she has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years; or

3. Etches, paints, draws upon or otherwise places a swastika, commonly exhibited as the emblem of Nazi Germany, on any building or other real

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

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property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property;

4. Sets on fire a cross in public view; or

5. **Either (a) unlawfully discloses confidential information concerning the person he or she intends to harass, annoy, threaten, or alarm which he or she obtained from a government agency or any political subdivision of the state or municipality, in a manner likely to cause annoyance or alarm; or (b) unlawfully causes personnel employed by a governmental agency or any political subdivision of the state or municipality to contact or interact with the person he or she intends to harass, annoy, threaten, or alarm in an official capacity, in a manner likely to cause annoyance or alarm; or**

6. Etches, paints, draws upon or otherwise places or displays a noose, commonly exhibited as a symbol of racism and intimidation, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property.

Aggravated harassment in the first degree is a class E felony.

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.