

# STATE OF NEW YORK

2962

2017-2018 Regular Sessions

## IN ASSEMBLY

January 23, 2017

Introduced by M. of A. ABBATE -- 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, firefighters and emergency medical services personnel 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 (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 county or state correctional officer or federal law

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

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1 enforcement officer or employee whose permanent duties include the care,  
2 custody, control or supervision of inmates.

3 2. Proof of race, color, national origin, ancestry, gender, religion,  
4 religious practice, age, disability or sexual orientation or employment  
5 as a law enforcement officer, a firefighter or as emergency medical  
6 services personnel of the defendant, the victim or of both the defendant  
7 and the victim does not, by itself, constitute legally sufficient  
8 evidence satisfying the people's burden under paragraph (a) or (b) of  
9 subdivision one of this section.

10 4. For purposes of this section:

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

12 (b) the term "disability" means a physical or mental impairment that  
13 substantially limits a major life activity[-];

14 (c) the term "law enforcement officer" means any active or retired  
15 city or state law enforcement officer, peace officer, sheriff, deputy  
16 sheriff, probation or parole officer, marshal, deputy, wildlife enforce-  
17 ment agency, county or state correctional officer, fire marshal or  
18 commissioned agent of the department of corrections and community super-  
19 vision, as well as any federal law enforcement officer or employee,  
20 whose permanent duties include making arrests, performing search and  
21 seizures, execution of criminal arrest warrants, execution of civil  
22 seizure warrants, any civil functions performed by sheriffs or deputy  
23 sheriffs, enforcement of penal or traffic laws, or the care, custody,  
24 control or supervision of inmates;

25 (d) the term "firefighter" means (i) any firefighter regularly  
26 employed by a fire department of any municipality of the state of New  
27 York and (ii) any volunteer firefighter as defined in subdivision one of  
28 section three of the volunteer firefighters' benefit law; and

29 (e) the term "emergency medical services personnel" means the person-  
30 nel of a service or agency, whether paid or volunteer, engaged in  
31 providing initial emergency medical assistance, including but not limit-  
32 ed to first responders, emergency medical technicians and advanced emer-  
33 gency medical technicians.

34 § 2. This act shall take effect immediately.