

# STATE OF NEW YORK

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3071

2017-2018 Regular Sessions

## IN SENATE

January 19, 2017

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Introduced by Sens. ADDABBO, AVELLA -- read twice and ordered printed,  
and when printed to be committed 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 Assem-  
bly, do enact as follows:

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

5 § 240.31 Aggravated harassment in the first degree.

6 A person is guilty of aggravated harassment in the first degree when  
7 with intent to harass, annoy, threaten or alarm another person, because  
8 of a belief or perception regarding such person's race, color, national  
9 origin, ancestry, gender, religion, religious practice, age, disability  
10 or sexual orientation, regardless of whether the belief or perception is  
11 correct, he or she:

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

16 2. Commits the crime of aggravated harassment in the second degree in  
17 the manner proscribed by the provisions of subdivision three of section  
18 240.30 of this article and has been previously convicted of the crime of  
19 aggravated harassment in the second degree for the commission of conduct  
20 proscribed by the provisions of subdivision three of section 240.30 or  
21 he or she has been previously convicted of the crime of aggravated  
22 harassment in the first degree within the preceding ten years; or

23 3. Etches, paints, draws upon or otherwise places a swastika, commonly  
24 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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1 property, public or private, owned by any person, firm or corporation or  
2 any public agency or instrumentality, without express permission of the  
3 owner or operator of such building or real property;

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

5 5. Either (a) unlawfully discloses confidential information concern-  
6 ing the person he or she intends to harass, annoy, threaten, or alarm  
7 which he or she obtained from a government agency or any political  
8 subdivision of the state or municipality, in a manner likely to cause  
9 annoyance or alarm; or (b) unlawfully causes personnel employed by a  
10 governmental agency or any political subdivision of the state or munici-  
11 pality to contact or interact with the person he or she intends to  
12 harass, annoy, threaten, or alarm in an official capacity, in a manner  
13 likely to cause annoyance or alarm; or

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

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

20 § 2. This act shall take effect on the first of November next succeed-  
21 ing the date on which it shall have become a law.