STATE OF NEW YORK

5399--A

2017-2018 Regular Sessions

IN SENATE

March 24, 2017

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to aggravated harassment of an employee by an inmate or by a defendant

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

Section 1. Section 240.32 of the penal law, as amended by section 127-p of subpart B of part C of chapter 62 of the laws of 2011, the opening paragraph as amended by chapter 180 of the laws of 2013, is amended to read as follows:

§ 240.32 Aggravated harassment of an employee by an inmate.

An inmate or respondent is guilty of aggravated harassment of an employee by an inmate when, with intent to harass, annoy, threaten or alarm a person in a facility whom he or she knows or reasonably should know to be an employee of such facility [~~or~~], the board of parole [~~or~~], the office of mental health, [~~or~~] a probation department, bureau or unit, the office of court administration or the municipality that operates and maintains the judicial facility, or a police officer, he or she causes or attempts to cause such employee to come into contact with saliva, blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material.

For purposes of this section, "inmate" means an inmate or detainee in a correctional facility, local correctional facility or a hospital, as such term is defined in subdivision two of section four hundred of the correction law. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services. For purposes of this section, "facility" means a correctional facility or local correctional facility, hospi-

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

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tal, as such term is defined in subdivision two of section four hundred of the correction law, [~~or~~] a secure facility operated and maintained by the office of children and family services**, or a judicial facility. For purposes of this section, "judicial facility" means a courtroom, including rooms used to hold inmates while they wait for their case to be called**.

Aggravated harassment of an employee by an inmate is a class E felony.

§ 2. The penal law is amended by adding a new section 240.33 to read as follows:

§ 240.33 Aggravated harassment of an employee by a defendant.

A criminal defendant is guilty of aggravated harassment of an employee by a defendant when, with intent to harass, annoy, threaten or alarm a person in a judicial facility whom he or she knows or reasonably should know to be an employee of the office of court administration or the municipality operating and maintaining the judicial facility, the office of mental health, or a probation department, bureau or unit or a police officer, he or she causes or attempts to cause such employee to come into contact with saliva, blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material.

For purposes of this section, "criminal defendant" means a person who has been arrested or taken into custody for alleged criminal activity, including probation or parole violations, but has not been convicted of such alleged criminal activity. For purposes of this section, "judicial facility" means a courtroom, including rooms used to hold criminal defendants while they wait for their case to be called.

Aggravated harassment of an employee by a defendant is a class E felony.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.