

# STATE OF NEW YORK

8261

## IN SENATE

April 24, 2018

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and  
when printed to be committed to the Committee on Veterans, Homeland  
Security and Military Affairs

AN ACT to amend the penal law, in relation to acts of terrorism and  
falsely reporting an incident

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

1 Section 1. Subdivision 1 of section 490.05 of the penal law, as added  
2 by chapter 300 of the laws of 2001, is amended to read as follows:

3 1. "Act of terrorism":

4 (a) for purposes of this article means: (i) an act or acts constitut-  
5 ing a specified offense as defined in subdivision three of this section  
6 for which a person may be convicted in the criminal courts of this state  
7 pursuant to article twenty of the criminal procedure law, or an act or  
8 acts constituting an offense in any other jurisdiction within or outside  
9 the territorial boundaries of the United States which contains all of  
10 the essential elements of a specified offense, that is intended to:

11 [~~(i)~~] (A) intimidate or coerce a civilian population, the occupants of  
12 a school, college or university, house of worship or business or persons  
13 comprising a mass gathering of more than twenty-five people;

14 [~~(ii)~~] (B) influence the policy of a unit of government by intim-  
15 idation or coercion; or

16 [~~(iii)~~] (C) affect the conduct of a unit of government by murder,  
17 assassination or kidnapping; or

18 (ii) the unlawful discharge of a firearm, rifle, shotgun or assault  
19 weapon with the intent to cause physical injury or death to another  
20 person, or damage to private or public property:

21 (A) within a distance of one thousand feet from the grounds of a  
22 public, parochial or private school, college or university of which the  
23 actor is aware; or

24 (B) within a distance of one thousand feet from the grounds of a place  
25 of worship of which the actor is aware; or

26 (C) in a place of business with one or more employees of which the  
27 actor is aware; or

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

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1 (D) within one thousand feet of a mass gathering of people of which  
2 the actor is aware and the mass gathering consisted of more than twen-  
3 ty-five people.

4 (b) for purposes of subparagraph (xiii) of paragraph (a) of subdivi-  
5 sion one of section 125.27 of this chapter means: (i) activities that  
6 involve a violent act or acts dangerous to human life that are in  
7 violation of the criminal laws of this state and are intended to:

8 ~~[(i)]~~ (A) intimidate or coerce a civilian population, the occupants of  
9 a school, college or university, house of worship or business or persons  
10 comprising a mass gathering of more than twenty-five people;

11 ~~[(ii)]~~ (B) influence the policy of a unit of government by intimid-  
12 ation or coercion; or

13 ~~[(iii)]~~ (C) affect the conduct of a unit of government by murder,  
14 assassination or kidnapping~~[-]; or~~

15 (ii) the unlawful discharge of a firearm, rifle, shotgun or assault  
16 weapon with the intent to cause physical injury or death to another  
17 person, or damage to private or public property:

18 (A) within a distance of one thousand feet from the grounds of a  
19 public, parochial or private school, college or university of which the  
20 actor is aware; or

21 (B) within a distance of one thousand feet from the grounds of a place  
22 of worship of which the actor is aware; or

23 (C) in a place of business with one or more employees of which the  
24 actor is aware; or

25 (D) within one thousand feet of a mass gathering of people of which  
26 the actor is aware and the mass gathering consisted of more than twen-  
27 ty-five people.

28 § 2. Subdivisions 1 and 2 of section 490.20 of the penal law, as added  
29 by chapter 300 of the laws of 2001, are amended to read as follows:

30 1. A person is guilty of making a terroristic threat when with intent  
31 to intimidate or coerce a civilian population, the occupants of a  
32 school, college or university, house of worship or business or persons  
33 comprising a mass gathering of more than twenty-five people, influence  
34 the policy of a unit of government by intimidation or coercion, or  
35 affect the conduct of a unit of government by murder, assassination or  
36 kidnapping, he or she threatens to commit or cause to be committed a  
37 specified offense or an act of terrorism as defined in subparagraph (ii)  
38 of paragraph (a) of subdivision one of section 490.05 of this article  
39 and thereby causes a reasonable expectation or fear of the imminent  
40 commission of such offense or act.

41 2. It shall be no defense to a prosecution pursuant to this section  
42 that the defendant did not have the intent or capability of committing  
43 the act of terrorism or specified offense or that the threat was not  
44 made to a person who was a subject thereof.

45 § 3. Section 490.25 of the penal law, as added by chapter 300 of the  
46 laws of 2001, is amended to read as follows:

47 § 490.25 Crime of terrorism.

48 1. A person is guilty of a crime of terrorism when, with intent to  
49 intimidate or coerce a civilian population, the occupants of a school,  
50 college or university, house of worship or business or persons compris-  
51 ing a mass gathering of more than twenty-five people, influence the  
52 policy of a unit of government by intimidation or coercion, or affect  
53 the conduct of a unit of government by murder, assassination or kidnap-  
54 ping, he or she commits a specified offense or an act of terrorism as  
55 defined in subparagraph (ii) of paragraph (a) of subdivision one of  
56 section 490.05 of this article.

2. Sentencing. (a) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class B, C, D or E felony offense, the crime of terrorism shall be deemed a violent felony offense.

(b) When a person is convicted of a crime of terrorism pursuant to this section, based upon an act of terrorism as defined in subparagraph (ii) of paragraph (a) of subdivision 1 of section 490.05 of this article that involved the unlawful discharge of a firearm, rifle, shotgun or assault weapon with the intent to damage private or public property, the crime of terrorism shall be deemed a class D non-felony violent felony offense.

(c) When a person is convicted of a crime of terrorism pursuant to this section, based upon an act of terrorism as defined in subparagraph (ii) of paragraph (a) of subdivision one of section 490.05 of this article that involved the unlawful discharge of a firearm, rifle, shotgun or assault weapon with the intent to cause physical injury or death to another person, the crime of terrorism shall be deemed a class C violent felony offense.

(d) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class C, D or E felony offense, the crime of terrorism shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit the offense, whichever is applicable.

~~[(e)]~~ (e) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class B felony offense, the crime of terrorism shall be deemed a class A-I felony offense and the sentence imposed upon conviction of such offense shall be in accordance with section 70.00 of this chapter.

~~[(d)]~~ (f) Notwithstanding any other provision of law, when a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class A-I felony offense, the sentence upon conviction of such offense shall be life imprisonment without parole; provided, however, that nothing herein shall preclude or prevent a sentence of death when the specified offense is murder in the first degree as defined in section 125.27 of this chapter.

§ 4. Section 490.30 of the penal law, as added by chapter 300 of the laws of 2001, is amended to read as follows:

§ 490.30 Hindering prosecution of terrorism in the second degree.

1. A person is guilty of hindering prosecution of terrorism in the second degree when he or she renders criminal assistance to a person who has committed an act of terrorism, knowing or believing that such person engaged in conduct constituting an act of terrorism.

2. Sentencing. (a) When a person is convicted of hindering prosecution of terrorism in the second degree and the person to whom he or she rendered criminal assistance committed an act of terrorism that involved the commission of a specified offense, the crime of hindering prosecution of terrorism in the second degree shall be deemed to be a non-violent felony offense of the same category as the specified offense.

(b) When a person is convicted of hindering prosecution of terrorism in the second degree and the person to whom he or she rendered criminal assistance committed an act of terrorism that involved the unlawful discharge of a firearm, rifle, shotgun or assault weapon with the intent to cause physical injury or death to another person that did not consti-

1 tute a specified offense, the crime of hindering prosecution of terror-  
2 ism in the second degree shall be deemed to be a class D non-violent  
3 felony offense.

4 (c) When a person is convicted of hindering prosecution of terrorism  
5 in the second degree and the person to whom he or she rendered criminal  
6 assistance committed an act of terrorism that involved the unlawful  
7 discharge of a firearm, rifle, shotgun or assault weapon with the intent  
8 to damage private or public property that did not constitute a specified  
9 offense, the crime of hindering prosecution of terrorism shall be deemed  
10 to be a class E non-violent felony offense.

11 Hindering prosecution of terrorism in the second degree is a class C  
12 felony.

13 § 5. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
14 490.40 of the penal law, as added by section 9 of part A of chapter 1 of  
15 the laws of 2004, is amended to read as follows:

16 (i) intimidate or coerce a civilian population, the occupants of a  
17 school, college or university, house of worship or business or persons  
18 comprising a mass gathering of more than twenty-five people;

19 § 6. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
20 490.45 of the penal law, as added by section 9 of part A of chapter 1 of  
21 the laws of 2004, is amended to read as follows:

22 (i) intimidate or coerce a civilian population, the occupants of a  
23 school, college or university, house of worship or business or persons  
24 comprising a mass gathering of more than twenty-five people;

25 § 7. Paragraph (a) of subdivision 2 of section 490.50 of the penal  
26 law, as added by section 9 of part A of chapter 1 of the laws of 2004,  
27 is amended to read as follows:

28 (a) intimidate or coerce a civilian population, the occupants of a  
29 school, college or university, house of worship or business or persons  
30 comprising a mass gathering of more than twenty-five people;

31 § 8. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
32 490.55 of the penal law, as added by section 9 of part A of chapter 1 of  
33 the laws of 2004, is amended to read as follows:

34 (i) intimidate or coerce a civilian population, the occupants of a  
35 school, college or university, house of worship or business or persons  
36 comprising a mass gathering of more than twenty-five people;

37 § 9. Subdivision 3 of section 240.00 of the penal law, as added by  
38 chapter 561 of the laws of 1999, is amended to read as follows:

39 3. "School grounds" means in or on or within any building, structure,  
40 school bus as defined in section one hundred forty-two of the vehicle  
41 and traffic law, athletic playing field, playground or land contained  
42 within the real property boundary line of a public [~~or private elementa-~~  
43 ~~ry~~], parochial[~~, intermediate, junior high, vocational~~] or [~~high~~]  
44 private school, college or university.

45 § 10. Subdivision 5 of section 240.60 of the penal law, as added by  
46 chapter 561 of the laws of 1999, is amended to read as follows:

47 5. Knowing the information reported, conveyed or circulated to be  
48 false or baseless and under circumstances in which it is likely public  
49 alarm or inconvenience will result, he or she initiates or circulates a  
50 report or warning of an alleged occurrence or an impending occurrence of  
51 a fire, an explosion, [~~or~~] the release of a hazardous substance or the  
52 unlawful discharge of a firearm, rifle, shotgun or assault weapon upon  
53 school grounds and it is likely that persons are present on said  
54 grounds.

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