

STATE OF NEW YORK

10933

IN ASSEMBLY

August 17, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Ra) -- 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 as hate crimes and makes graffiti a hate crime

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

1 Section 1. Paragraphs (a) and (b) of subdivision 1 and subdivision 2
2 of section 485.05 of the penal law, as amended by chapter 8 of the laws
3 of 2019, are amended to read as follows:

4 (a) intentionally selects the person against whom the offense is
5 committed or intended to be committed in whole or in substantial part
6 because of a belief or perception regarding (i) the race, color,
7 national origin, ancestry, gender, gender identity or expression, reli-
8 gion, religious practice, age, disability or sexual orientation of a
9 person or (ii) because of actual or perceived employment as a law
10 enforcement officer, regardless of whether the belief or perception is
11 correct, or

12 (b) intentionally commits the act or acts constituting the offense in
13 whole or in substantial part because of a belief or perception regarding
14 (i) the race, color, national origin, ancestry, gender, gender identity
15 or expression, religion, religious practice, age, disability or sexual
16 orientation of a person or (ii) because of actual or perceived employ-
17 ment as a law enforcement officer, regardless of whether the belief or
18 perception is correct.

19 2. Proof of race, color, national origin, ancestry, gender, gender
20 identity or expression, religion, religious practice, age, disability or
21 sexual orientation or employment as a law enforcement officer of the
22 defendant, the victim or of both the defendant and the victim does not,
23 by itself, constitute legally sufficient evidence satisfying the
24 people's burden under paragraph (a) or (b) of subdivision one of this
25 section.

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

LBD17057-01-0

§ 2. Subdivision 3 of section 485.05 of the penal law, as amended by section 9 of part NN of chapter 55 of the laws of 2018, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.60 (making graffiti); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one[~~7~~] or two [~~or four~~] of section 240.30 (aggravated harassment in the second degree); or any attempt or conspiracy to commit any of the foregoing offenses.

§ 3. Subdivision 3 of section 485.05 of the penal law, as amended by section 3 of part R of chapter 55 of the laws of 2020, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a

1 person less than eleven years old); section 120.13 (menacing in the
2 first degree); section 120.14 (menacing in the second degree); section
3 120.15 (menacing in the third degree); section 120.20 (reckless endan-
4 germent in the second degree); section 120.25 (reckless endangerment in
5 the first degree); section 121.12 (strangulation in the second degree);
6 section 121.13 (strangulation in the first degree); subdivision one of
7 section 125.15 (manslaughter in the second degree); subdivision one, two
8 or four of section 125.20 (manslaughter in the first degree); section
9 125.25 (murder in the second degree); section 120.45 (stalking in the
10 fourth degree); section 120.50 (stalking in the third degree); section
11 120.55 (stalking in the second degree); section 120.60 (stalking in the
12 first degree); subdivision one of section 130.35 (rape in the first
13 degree); subdivision one of section 130.50 (criminal sexual act in the
14 first degree); subdivision one of section 130.65 (sexual abuse in the
15 first degree); paragraph (a) of subdivision one of section 130.67
16 (aggravated sexual abuse in the second degree); paragraph (a) of subdi-
17 vision one of section 130.70 (aggravated sexual abuse in the first
18 degree); section 135.05 (unlawful imprisonment in the second degree);
19 section 135.10 (unlawful imprisonment in the first degree); section
20 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in
21 the first degree); section 135.60 (coercion in the third degree);
22 section 135.61 (coercion in the second degree); section 135.65 (coercion
23 in the first degree); section 140.10 (criminal trespass in the third
24 degree); section 140.15 (criminal trespass in the second degree);
25 section 140.17 (criminal trespass in the first degree); section 140.20
26 (burglary in the third degree); section 140.25 (burglary in the second
27 degree); section 140.30 (burglary in the first degree); section 145.00
28 (criminal mischief in the fourth degree); section 145.05 (criminal
29 mischief in the third degree); section 145.10 (criminal mischief in the
30 second degree); section 145.12 (criminal mischief in the first degree);
31 section 145.60 (making graffiti); section 150.05 (arson in the fourth
32 degree); section 150.10 (arson in the third degree); section 150.15
33 (arson in the second degree); section 150.20 (arson in the first
34 degree); section 155.25 (petit larceny); section 155.30 (grand larceny
35 in the fourth degree); section 155.35 (grand larceny in the third
36 degree); section 155.40 (grand larceny in the second degree); section
37 155.42 (grand larceny in the first degree); section 160.05 (robbery in
38 the third degree); section 160.10 (robbery in the second degree);
39 section 160.15 (robbery in the first degree); section 240.25 (harassment
40 in the first degree); subdivision one[~~7~~] or two [~~or four~~] of section
41 240.30 (aggravated harassment in the second degree); section 490.10
42 (soliciting or providing support for an act of terrorism in the second
43 degree); section 490.15 (soliciting or providing support for an act of
44 terrorism in the first degree); section 490.20 (making a terroristic
45 threat); section 490.25 (crime of terrorism); section 490.30 (hindering
46 prosecution of terrorism in the second degree); section 490.35 (hinder-
47 ing prosecution of terrorism in the first degree); section 490.37 (crim-
48 inal possession of a chemical weapon or biological weapon in the third
49 degree); section 490.40 (criminal possession of a chemical weapon or
50 biological weapon in the second degree); section 490.45 (criminal
51 possession of a chemical weapon or biological weapon in the first
52 degree); section 490.47 (criminal use of a chemical weapon or biological
53 weapon in the third degree); section 490.50 (criminal use of a chemical
54 weapon or biological weapon in the second degree); section 490.55 (crim-
55 inal use of a chemical weapon or biological weapon in the first degree);
56 or any attempt or conspiracy to commit any of the foregoing offenses.

1 § 4. This act shall take effect immediately, provided, however, that
2 the amendments to subdivision 3 of section 485.05 of the penal law made
3 by section three of this act shall take effect on the same date and in
4 the same manner as section 3 of part R of chapter 55 of the laws of
5 2020, takes effect.