

# STATE OF NEW YORK

8286--A

## IN SENATE

May 6, 2020

Introduced by Sen. GAUGHRAN -- 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 establishing crimes against essential workers during a declared state disaster emergency

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

1 Section 1. Part 4 of the penal law is amended by adding a new title  
2 Y-3 to read as follows:

3 TITLE Y-3

4 CRIMES AGAINST ESSENTIAL WORKERS DURING A DECLARED STATE  
5 DISASTER EMERGENCY

6 ARTICLE 497

7 CRIMES AGAINST ESSENTIAL WORKERS DURING A DECLARED STATE  
8 DISASTER EMERGENCY

9 Section 497.00 Definitions.

10 497.05 Crimes against essential workers during a declared state  
11 disaster emergency.

12 497.10 Sentencing.

13 § 497.00 Definitions.

14 As used in this title:

15 1. "Declared state disaster emergency" shall mean a period of time  
16 beginning with the declaration of a disaster pursuant to an executive  
17 order and in conformance with article two-B of the executive law. The  
18 declared state disaster emergency shall end upon termination of the  
19 executive order.

20 2. "Employee" shall mean a paid worker or volunteer worker providing  
21 work and/or services for their employer during the period of the emer-  
22 gency.

23 3. "Essential worker" shall mean an employee of an essential business  
24 or an employee of the state, local government, a school district, a  
25 municipality or an authority working within the affected area as defined  
26 by the executive order.

27 4. "Essential business" shall have the same meaning as is defined by  
28 the applicable executive order.

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

LBD16209-03-0

1 § 497.05 Crimes against essential workers during a declared state disas-  
2 ter emergency.

3 1. A person commits a crime against an essential worker during a  
4 declared state disaster emergency when during the pendency of a declared  
5 state of emergency he or she commits a specified offense against an  
6 essential worker in the declared disaster area and such crime is commit-  
7 ted against such worker while the worker is in the course of their  
8 duties or while such worker is in uniform or clothing indicative of  
9 their profession.

10 2. Proof of status as an essential worker does not, by itself, consti-  
11 tute legally sufficient evidence satisfying the people's burden under  
12 this title.

13 3. A "specified offense" for purposes of this title is any offense  
14 contained in this article with the exclusion of those crimes enumerated  
15 in section 120.08, 120.09, 120.11, 120.18 or 125.27 of this chapter.

16 § 497.10 Sentencing.

17 1. When a person is convicted of a crime against an essential worker  
18 during a declared state disaster emergency pursuant to this title, and  
19 the specified offense is a violent felony offense, as defined in section  
20 70.02 of this chapter, the crime against an essential worker during a  
21 declared state disaster emergency shall be deemed a violent felony  
22 offense.

23 2. When a person is convicted of a crime against an essential worker  
24 during a declared state disaster emergency pursuant to this title, and  
25 the specified offense is a misdemeanor or a class C, D, or E felony, the  
26 crime against the essential worker during a declared state disaster  
27 emergency shall be deemed to be one category higher than the specified  
28 offense the defendant committed, or one category higher than the offense  
29 level applicable to the defendant's conviction for an attempt or  
30 conspiracy to commit a specified offense, whichever is applicable.

31 3. Notwithstanding any other provision of law, when a person is  
32 convicted of a crime against an essential worker during a declared state  
33 disaster emergency pursuant to this title and the specified offense is a  
34 class B felony:

35 a. The maximum term of the indeterminate sentence must be at least six  
36 years if the defendant is sentenced pursuant to section 70.00 of this  
37 chapter;

38 b. The term of the determinate sentence must be at least eight years  
39 if the defendant is sentenced pursuant to section 70.02 of this chapter;

40 c. The term of the determinate sentence must be at least twelve years  
41 if the defendant is sentenced pursuant to section 70.04 of this chapter;

42 d. The maximum term of the indeterminate sentence must be at least  
43 four years if the defendant is sentenced pursuant to section 70.05 of  
44 this chapter; and

45 e. The maximum term of the indeterminate sentence or the term of the  
46 determinate sentence must be at least ten years if the defendant is  
47 sentenced pursuant to section 70.06 of this chapter.

48 4. Notwithstanding any other provision of law, when a person is  
49 convicted of a crime against an essential worker during a declared state  
50 disaster emergency pursuant to this title and the specified offense is a  
51 class A-1 felony, the minimum period of the indeterminate sentence shall  
52 not be less than twenty years.

53 § 2. This act shall take effect immediately and shall apply to crimes  
54 committed on or after such date.