STATE OF NEW YORK

10959

IN ASSEMBLY

September 9, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. LiPetri) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to including crimes committed based on political ideology as a hate crime

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

Section 1. The opening paragraph of section 485.00 of the penal law, as amended by chapter 8 of the laws of 2019, is amended to read as follows:

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as "hate crimes", victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability**, political ideology** or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes. In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. Current law does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence.

§ 2. The opening paragraph of section 485.00 of the penal law, as amended by section 2 of part R of chapter 55 of the laws of 2020, is amended to read as follows:

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent

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

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years. The intolerable truth is that in these crimes, commonly and justly referred to as "hate crimes", victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, **political ideology** or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes. In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. However, these criminal acts do occur and are occurring more and more frequently. Quite often, these crimes of hate are also acts of terror. The recent attacks in Monsey, New York as well as the shootings in El Paso, Texas; Pittsburgh, Pennsylvania; Sutherland Springs, Texas; Orlando, Florida; and Charleston, South Carolina illustrate that mass killings are often apolitical, motivated by the hatred of a specific group coupled with a desire to inflict mass casualties. The current law emphasizes the political motivation of an act over its catastrophic effect and does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence.

§ 3. Subdivisions 1 and 2 of section 485.05 of the penal law, as amended by chapter 8 of the laws of 2019, are amended to read as follows:

1. A person commits a hate crime when he or she commits a specified offense and either:

(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, **political ideology** or sexual orientation of a person, regardless of whether the belief or perception is correct, or

(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, **political ideology** or sexual orientation of a person, regardless of whether the belief or perception is correct.

2. Proof of race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, **political ideology** or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.

§ 4. This act shall take effect immediately; provided, however, that section two of this act shall take effect on the same date and in the same manner as section 2 of part R of chapter 55 of the laws of 2020, takes effect.