

STATE OF NEW YORK

6169

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

Introduced by M. of A. DeSTEFANO -- 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

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

1 Section 1. Subdivisions 1, 2 and 4 of section 485.05 of the penal law,
2 as amended by chapter 8 of the laws of 2019, are amended to read as
3 follows:

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

6 (a) intentionally selects the person against whom the offense is
7 committed or intended to be committed in whole or in substantial part
8 because of a belief or perception regarding the race, color, national
9 origin, ancestry, gender, gender identity or expression, religion, reli-
10 gious practice, age, disability, or because of actual or perceived
11 employment as emergency medical services personnel, a firefighter or a
12 law enforcement officer, or sexual orientation of a person, regardless
13 of whether the belief or perception is correct, or

14 (b) intentionally commits the act or acts constituting the offense in
15 whole or in substantial part because of a belief or perception regarding
16 the race, color, national origin, ancestry, gender, gender identity or
17 expression, religion, religious practice, age, disability, or because of
18 actual or perceived employment as emergency medical services personnel,
19 a firefighter or a law enforcement officer, or sexual orientation of a
20 person, regardless of whether the belief or perception is correct.

21 2. Proof of race, color, national origin, ancestry, gender, gender
22 identity or expression, religion, religious practice, age, disability,
23 or because of actual or perceived employment as emergency medical
24 services personnel, a firefighter or a law enforcement officer, or sexu-
25 al orientation of the defendant, the victim or of both the defendant and

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

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1 the victim does not, by itself, constitute legally sufficient evidence
2 satisfying the people's burden under paragraph (a) or (b) of subdivision
3 one of this section.

4 4. For purposes of this section:

5 (a) the term "age" means sixty years old or more;

6 (b) the term "disability" means a physical or mental impairment that
7 substantially limits a major life activity;

8 (c) the term "gender identity or expression" means a person's actual
9 or perceived gender-related identity, appearance, behavior, expression,
10 or other gender-related characteristic regardless of the sex assigned to
11 that person at birth, including, but not limited to, the status of being
12 transgender;

13 (d) the term "emergency medical services personnel" means persons
14 trained and certified or licensed to provide emergency medical care,
15 whether on a paid or volunteer basis, as part of a basic life support or
16 advanced life support pre-hospital emergency care service or in an emer-
17 gency department or pediatric critical care or specialty unit in a
18 licensed hospital;

19 (e) the term "firefighter" means any firefighter regularly employed by
20 a fire department of any municipality of the state of New York; and

21 (f) the term "law enforcement officer" means any active or retired
22 city or state law enforcement officer, peace officer, sheriff, deputy
23 sheriff, probation or parole officer, marshal, deputy, wildlife enforce-
24 ment agency, state correctional officer, or commissioned agent of the
25 department of corrections and community supervision, as well as any
26 federal law enforcement officer or employee, whose permanent duties
27 include making arrests, performing search and seizures, execution of
28 criminal arrest warrants, execution of civil seizure warrants, any civil
29 functions performed by sheriffs or deputy sheriffs, enforcement of penal
30 or traffic laws, or the care, custody, control or supervision of
31 inmates.

32 § 2. This act shall take effect on the same date and in the same
33 manner as chapter 8 of the laws of 2019, takes effect.