

STATE OF NEW YORK

3919

2019-2020 Regular Sessions

IN SENATE

February 21, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to aggravated harassment of an employee by an inmate or by a defendant

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

1 Section 1. Section 240.32 of the penal law, as amended by section
2 127-p of subpart B of part C of chapter 62 of the laws of 2011, the
3 opening paragraph as amended by chapter 180 of the laws of 2013, is
4 amended to read as follows:

5 § 240.32 Aggravated harassment of an employee by an inmate.

6 An inmate or respondent is guilty of aggravated harassment of an
7 employee by an inmate when, with intent to harass, annoy, threaten or
8 alarm a person in a facility whom he or she knows or reasonably should
9 know to be an employee of such facility ~~[or]~~, the board of parole ~~[or]~~,
10 the office of mental health, ~~[or]~~ a probation department, bureau or
11 unit, the office of court administration or the municipality that oper-
12 ates and maintains the judicial facility, or a police officer, he or she
13 causes or attempts to cause such employee to come into contact with
14 saliva, blood, seminal fluid, urine, feces, or the contents of a toilet
15 bowl, by throwing, tossing or expelling such fluid or material.

16 For purposes of this section, "inmate" means an inmate or detainee in
17 a correctional facility, local correctional facility or a hospital, as
18 such term is defined in subdivision two of section four hundred of the
19 correction law. For purposes of this section, "respondent" means a juve-
20 nile in a secure facility operated and maintained by the office of chil-
21 dren and family services who is placed with or committed to the office
22 of children and family services. For purposes of this section, "facili-
23 ty" means a correctional facility or local correctional facility, hospi-
24 tal, as such term is defined in subdivision two of section four hundred
25 of the correction law, ~~[or]~~ a secure facility operated and maintained by

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

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1 the office of children and family services, or a judicial facility. For
2 purposes of this section, "judicial facility" means a courtroom, includ-
3 ing rooms used to hold inmates while they wait for their case to be
4 called.

5 Aggravated harassment of an employee by an inmate is a class E felony.

6 § 2. The penal law is amended by adding a new section 240.33 to read
7 as follows:

8 § 240.33 Aggravated harassment of an employee by a defendant.

9 A criminal defendant is guilty of aggravated harassment of an employee
10 by a defendant when, with intent to harass, annoy, threaten or alarm a
11 person in a judicial facility whom he or she knows or reasonably should
12 know to be an employee of the office of court administration or the
13 municipality operating and maintaining the judicial facility, the office
14 of mental health, or a probation department, bureau or unit or a police
15 officer, he or she causes or attempts to cause such employee to come
16 into contact with saliva, blood, seminal fluid, urine, feces, or the
17 contents of a toilet bowl, by throwing, tossing or expelling such fluid
18 or material.

19 For purposes of this section, "criminal defendant" means a person who
20 has been arrested or taken into custody for alleged criminal activity,
21 including probation or parole violations, but has not been convicted of
22 such alleged criminal activity. For purposes of this section, "judicial
23 facility" means a courtroom, including rooms used to hold criminal
24 defendants while they wait for their case to be called.

25 Aggravated harassment of an employee by a defendant is a class E felo-
26 ny.

27 § 3. This act shall take effect on the thirtieth day after it shall
28 have become a law.