STATE OF NEW YORK

6514

2021-2022 Regular Sessions

IN ASSEMBLY

March 19, 2021

Introduced by M. of A. DICKENS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to hate crimes

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

Section 1. Subdivision 2 of section 485.05 of the penal law, as amended by chapter 8 of the laws of 2019, is amended to read as follows:

2. Proof of race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability 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~~] **creates a rebuttable presumption of evidence and prima facie case sufficient to satisfy** the people's burden **upon such element of the crime, animus,** under paragraph (a) or (b) of subdivision one of this section.

§ 2. Subdivisions 3 and 4 of section 485.10 of the penal law, as added by chapter 107 of the laws of 2000, are amended to read as follows:

3. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:

(a) the maximum term of the indeterminate sentence must be at least [~~six~~] **ten** years if the defendant is sentenced pursuant to section 70.00 of this chapter;

(b) the term of the determinate sentence must be at least [~~eight~~] **ten** years if the defendant is sentenced pursuant to section 70.02 of this chapter;

(c) the term of the determinate sentence must be at least [~~twelve~~] **fifteen** years if the defendant is sentenced pursuant to section 70.04 of this chapter;

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

LBD10326-01-1

(d) the maximum term of the indeterminate sentence must be at least [~~four~~] **six** years if the defendant is sentenced pursuant to section 70.05 of this chapter; and

(e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least [~~ten~~] **fifteen** years if the defendant is sentenced pursuant to section 70.06 of this chapter.

4. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than [~~twenty~~] **twenty-five** years.

§ 3. Subdivision 5 of section 485.10 of the penal law, as added by chapter 158 of the laws of 2010, is amended to read as follows:

5. In addition to any of the dispositions authorized by this chapter, the court [~~may~~] **shall** require as part of the sentence imposed upon a person convicted of a hate crime pursuant to this article, that the defendant complete a program, training session or counseling session directed at hate crime prevention and education, where the court determines such program, training session or counseling session is appropriate, available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

§ 4. Section 485.10 of the penal law is amended by adding a new subdivision 6 to read as follows:

6. The court shall impose a monetary fine that equates the cost of prosecution.

§ 5. This act shall take effect July 1, 2021.