STATE OF NEW YORK

3824

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. DeSTEFANO, WALSH, BRABENEC, B. MILLER, DiPIETRO, McDONOUGH, MORINELLO, SALKA, MANKTELOW, ASHBY, M. MILLER, SMITH, MONTESANO -- Multi-Sponsored by -- M. of A. J. M. GIGLIO -- 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 Assembly, do enact as follows:

Section 1. Subdivisions 1, 2 and 4 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**, or because of actual or perceived employment as emergency medical services personnel, a firefighter or a law enforcement officer,** 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**, or because of actual or perceived employment as emergency medical services personnel, a firefighter or a law enforcement officer,** 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**, or because of actual or perceived employment as emergency medical**

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

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services personnel, a firefighter or a law enforcement officer, 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. For purposes of this section:

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

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

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

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

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

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

§ 2. This act shall take effect immediately.