

STATE OF NEW YORK

1917

2021-2022 Regular Sessions

IN SENATE

January 16, 2021

Introduced by Sens. AKSHAR, BORRELLO, BOYLE, GALLIVAN, GRIFFO, HELMING, JORDAN, LANZA, O'MARA, ORTT, RITCHIE, SERINO, TEDISCO -- 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 designating offenses against law enforcement officers, firefighters and emergency medical services personnel as hate crimes

The People of the State of New York, represented in Senate and Assembly, 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 (i) race, color,
9 national origin, ancestry, gender, gender identity or expression, reli-
10 gion, religious practice, age, disability or sexual orientation of a
11 person or (ii) because of actual or perceived employment as a law
12 enforcement officer, a firefighter or as emergency medical services
13 personnel, regardless 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 (i) race, color, national origin, ancestry, gender, gender identity
17 or expression, religion, religious practice, age, disability or sexual
18 orientation of a person or (ii) because of actual or perceived employ-
19 ment as a law enforcement officer, a firefighter or as emergency medical
20 services personnel, regardless of whether the belief or perception is
21 correct.

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

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1 2. Proof of race, color, national origin, ancestry, gender, gender
2 identity or expression, religion, religious practice, age, disability or
3 sexual orientation or employment as a law enforcement officer, a fire-
4 fighter or as emergency medical services personnel of the defendant, the
5 victim or of both the defendant and the victim does not, by itself,
6 constitute legally sufficient evidence satisfying the people's burden
7 under paragraph (a) or (b) of subdivision one of this section.

8 4. For purposes of this section:

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

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

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

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

28 (e) the term "firefighter" means (i) any firefighter regularly
29 employed by a fire department of any municipality of the state of New
30 York and (ii) any volunteer firefighter as defined in subdivision one of
31 section three of the volunteer firefighters' benefit law; and

32 (f) the term "emergency medical services personnel" means the person-
33 nel of a service or agency, whether paid or volunteer, engaged in
34 providing initial emergency medical assistance, including but not limit-
35 ed to first responders, emergency medical technicians and advanced emer-
36 gency medical technicians.

37 § 2. This act shall take effect immediately.