STATE OF NEW YORK

1862

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. LAVINE, SEAWRIGHT -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the penal law, in relation to protections against anti-Semitism in the human rights law

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

Section 1. Legislative findings and determinations. The legislature finds and determines that discrimination and attacks have been unfairly and wrongfully levied and directed against the Jewish people and their faith for generations, from ancient times to the present. Such discrimination and attacks, manifesting themselves through acts of anti-Semitism, have proven to be among the most despicable acts of mankind, calling witness to countless acts of death, deprivation, injustice and holocaust.

The legislature further finds and determines that anti-Semitism sadly remains today, still a persistent, disturbing problem in certain segments of society, political movements, on college campuses, and by select disturbed and/or seriously misguided or hateful individuals.

The legislature also finds and determines that acts of anti-Semitism have even very recently resulted in homicidal attacks against Jewish places of worship in Pittsburgh, Pennsylvania and in the defacement and mutilation of publicly displayed photographs in New York City of a prominent and respected Jewish member of the United States Supreme Court.

The legislature additionally finds and determines that both the federal Department of Justice, and the federal Department of Education, have properly concluded that both state and federal law prohibits discrimination against persons of the Jewish faith, as well as members of other religious groups, when such discrimination is based on the actual or perceived religious faith, shared ancestry or ethnic characteristics, or when the discrimination is based on actual or perceived citizenship or

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

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residence in a country whose residents share a dominant religion or a distinct religious identity.

The legislature further finds and determines that persons of the Jewish faith, and/or of Jewish heritage, are continuing to be threatened, harassed or intimidated in their daily lives, work and education (including on their college campuses) and in the practice of their religion, by acts of anti-Semitism, due to the basis of their religious belief, shared ancestry or ethnic characteristics, including but not limited to harassing conduct that creates a hostile environment so severe, pervasive, or persistent as to interfere with or limit their ability to participate in or benefit from the services, activities, or opportunities offered by their daily life, work, schools or practice of their faith and/or religious principles.

The legislature finally finds and determines that legislation is therefore necessary to place a definition of anti-Semitism within the state human rights law, to specifically provide that acts of anti-Semitism shall constitute a violation of the state human rights law, and to further provide that anti-Semitism that incites, causes or results in any act of violence, or injury to a person, or the damage to or destruction of real or personal property, shall be deemed to constitute a hate crime.

§ 2. Section 292 of the executive law is amended by adding two new subdivisions 42 and 43 to read as follows:

42. The term "creed" means a set of moral, religious or ethical beliefs, and the practices and observances associated with such beliefs, and shall include both traditional religious beliefs associated with recognized, organized religions, as well as belief systems that may not be expressed by such organized religious groups. The protections provided by this article shall not only include protections against discrimination based on creed, including but not limited to discrimination against anyone practicing a belief in any form of Christianity, Judaism, Islam, Hinduism, Buddhism or any other type of religion, but shall also specifically provide for protections against anti-Semitism.

43. The term "anti-Semitism" means the public demonstration of negative actions, behaviors or perceptions regarding those persons practicing the Jewish religion or exhibiting a Jewish heritage, including:

a. hatred or severe disparagement toward the Jewish people or their culture;

b. rhetorical, violent and/or physical manifestations directed against Jewish or non-Jewish individuals or property, Jewish community institutions, and/or Jewish religious facilities;

c. the calling for, aiding, encouraging, supporting or justifying the killing, harming or defaming of anyone, simply for practicing the Jewish religion or exhibiting a Jewish heritage;

d. making false and mendacious, dehumanizing, demonizing, demeaning or stereotypical allegations, about persons practicing the Jewish religion, or about those who exhibit a Jewish heritage, or about the myth about a world Jewish conspiracy, or about Jewish persons allegedly controlling the media, economy, government or other societal institutions;

e. accusing those practicing the Jewish religion, or exhibiting a Jewish heritage, whether singularly or collectively, as being wholly responsible for any real or imagined wrongdoing committed by a single Jewish person or group;

f. accusing those practicing the Jewish religion, or exhibiting a Jewish heritage, whether singularly or collectively, as being wholly

responsible for any real or imagined wrongdoing committed by the state of Israel; and

g. accusing those practicing the Jewish religion, or exhibiting a Jewish heritage, whether singularly or collectively, of being more loyal to Israel, or to the alleged priorities of Jewish people worldwide, than to the interests of the people of the state of New York, or to the interests of the people of the United States of America.

§ 3. Section 297 of the executive law is amended by adding a new subdivision 11 to read as follows:

11. In reviewing, investigating, adjudicating or determining whether there has been a violation of this article on the basis of creed, and/or to afford protections against anti-Semitism, as defined by subdivision forty-three of section two hundred ninety-two of this article, as a result of actions taken against a person because of an individual's actual or perceived Jewish religious practices, or Jewish ancestry, or Jewish ethnic characteristics, the division or the court upon review, shall take into consideration the definition of anti-Semitism contained in subdivision forty-three of section two hundred ninety-two of this article, as part of its assessment, in any decision, determination, adjudication or judgment as to whether the alleged practice was motivated by anti-Semitic intent.

§ 4. Section 485.05 of the penal law is amended by adding a new subdivision 5 to read as follows:

5. In addition to any other hate crime provided for in this section, any person who commits an act of anti-Semitism, as defined in subdivision forty-three of section two hundred ninety-two of the executive law, that incites, causes or results in any act of violence, or injury to a person, or the damage to or destruction of real or personal property, shall be deemed to constitute a hate crime under this section.

§ 5. Nothing in the act shall be deemed to diminish or infringe upon any right protected under section 3 or 8 of Article I of the Constitution of the State of New York, or by the first amendment to the United States Constitution.

§ 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.