STATE OF NEW YORK

2964

2023-2024 Regular Sessions

IN ASSEMBLY

February 1, 2023

Introduced by M. of A. RA, BRABENEC, DURSO, GANDOLFO, PALMESANO -- 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 and makes graffiti a hate crime

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

Section 1. Paragraphs (a) and (b) of subdivision 1 and subdivision 2 of section 485.05 of the penal law, as amended by chapter 8 of the laws of 2019, are amended to read as follows:

(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 **(i)** the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person **or (ii) because of actual or perceived employment as a law enforcement officer**, 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 **(i)** the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person **or (ii) because of actual or perceived employment as a law enforcement officer**, 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 sexual orientation **or employment as a law enforcement officer** of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the

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

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people's burden under paragraph (a) or (b) of subdivision one of this section.

§ 2. Subdivision 3 of section 485.05 of the penal law, as amended by section 3 of part R of chapter 55 of the laws of 2020, is amended to read as follows:

3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); **section 145.60 (making graffiti);** section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 240.25 (harassment in the first degree); subdivision one[~~,~~] **or** two [~~**or four**~~] of section 240.30 (aggravated harassment in the second degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (crim-

inal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses.

§ 3. This act shall take effect immediately.