STATE OF NEW YORK

5852

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

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

AN ACT to amend the penal law, in relation to establishing the offenses of political coercion in the second degree, political coercion in the first degree and accomplice to political coercion

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

Section 1. The penal law is amended by adding three new sections 135.80, 135.81 and 135.82 to read as follows:

§ 135.80 Political coercion in the second degree.

A person is guilty of political coercion in the second degree when he or she, being a public servant in this state or any other state, and for political or publicity reasons or personal gain, transports another person into the state by means of intentionally:

1. making material false statements, misstatements, or omissions to compel or induce the person to be transported into the state with an intent to deceive such person;

2. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat;

3. removing a person seeking asylum in the United States from the state in which the asylum application or proceeding has been commenced;

4. using force or engaging in any scheme, plan or pattern to compel or induce a person to be transported into the state by means of instilling a fear in such person that, if the demand is not complied with, the actor or another will do one or more of the following:

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

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(a) withhold or deny a state or federal benefit from the person being transported or an immediate family member of such person; or

(b) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this article; or

(c) accuse or threaten to accuse the person being transported, or an immediate family member of such person, of a crime or causes criminal charges or deportation proceedings to be instituted against such person or persons; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or

(d) expose a secret or publicize an asserted fact, whether true or false, relating to the immigration status of the person being transported or of an immediate family member of such person; or

(e) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(f) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

(g) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is transported with respect to his or her health, safety, or immigration status, or that of an immediate family member.

5. As used in this section, "transport" includes compelling or inducing another to enter into the state voluntarily.

Political coercion in the second degree is a class D felony.

§ 135.81 Political coercion in the first degree.

A person is guilty of political coercion in the first degree when he or she commits the crime of political coercion in the second degree, and when:

1. he or she has committed the crime of political coercion in the second degree within the previous five years; or

2. the victim of the crime suffers serious bodily injury or death during the transport into the state.

Political coercion in the first degree is a class C felony.

§ 135.82 Accomplice to political coercion.

1. A person is guilty of being an accomplice to political coercion when with respect to a prosecution for political coercion in the second degree in violation of section 135.80 of this article or political coercion in the first degree in violation of section 135.81 of this article, he or she advances or attempts to advance or profits or attempts to profit from the offense, for financial or non-financial reasons, regardless of whether he or she is a public figure.

2. In a prosecution for political coercion in the second degree in violation of section 135.80 of this article or political coercion in the first degree in violation of section 135.81 of this article, a person who has been compelled or induced to enter into the state or who is transported into the state in violation of said sections shall not be deemed to be an accomplice to political coercion.

Accomplice to political coercion is a class D felony.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law.