

# STATE OF NEW YORK

8457

2023-2024 Regular Sessions

## IN ASSEMBLY

December 29, 2023

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

AN ACT to amend the penal law and the criminal procedure law, in relation to establishing the crimes of aggravated threat of mass harm in the first degree and aggravated threat of mass harm in the second degree, and making such crimes hate crimes

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

Section 1. Section 240.79 of the penal law, as added by chapter 206 of the laws of 2022, is renumbered 240.80 and is amended to read as follows:

§ 240.80 Aggravated threat of mass harm in the first degree.

1. A person is guilty of aggravated threat of mass harm in the first degree when such person engages in conduct as defined in section 240.78 or 240.79 of this article and has made any overt act in furtherance of the commission of such crime.

2. For purposes of this section, an overt act may include making a plan to carry out such threat, compiling a list of targets, possession of any weapon or device that can be used to carry out such threat, or other preparatory action.

Aggravated threat of mass harm in the first degree is a class [~~A misdemeanor~~] E felony.

§ 2. The penal law is amended by adding a new section 240.79 to read as follows:

§ 240.79 Aggravated threat of mass harm in the second degree.

1. A person is guilty of aggravated threat of mass harm in the second degree when such person engages in conduct as defined in section 240.78 of this article and the threat is made because of a belief or perception regarding the group's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age disa-

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

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1 bility or sexual orientation, regardless of whether the belief or  
2 perception is correct.

3 2. Proof of race, color, national origin, ancestry, gender, gender  
4 identity or expression, religion, religious practice, age disability or  
5 sexual orientation of the defendant, the victim or of both the defendant  
6 and the victim does not, by itself, constitute legally sufficient  
7 evidence satisfying the people's burden under subdivision one of this  
8 section.

9 3. For purposes of this section, the terms "age", "disability" and  
10 "gender identity or expression" shall be afforded the meaning of those  
11 terms as described in subdivision four of section 485.05 of this chap-  
12 ter.

13 Aggravated threat of mass harm in the second degree is a class A  
14 misdemeanor.

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

18 3. A "specified offense" is an offense defined by any of the following  
19 provisions of this chapter: section 120.00 (assault in the third  
20 degree); section 120.05 (assault in the second degree); section 120.10  
21 (assault in the first degree); section 120.12 (aggravated assault upon a  
22 person less than eleven years old); section 120.13 (menacing in the  
23 first degree); section 120.14 (menacing in the second degree); section  
24 120.15 (menacing in the third degree); section 120.20 (reckless endan-  
25 germent in the second degree); section 120.25 (reckless endangerment in  
26 the first degree); section 121.12 (strangulation in the second degree);  
27 section 121.13 (strangulation in the first degree); subdivision one of  
28 section 125.15 (manslaughter in the second degree); subdivision one, two  
29 or four of section 125.20 (manslaughter in the first degree); section  
30 125.25 (murder in the second degree); section 120.45 (stalking in the  
31 fourth degree); section 120.50 (stalking in the third degree); section  
32 120.55 (stalking in the second degree); section 120.60 (stalking in the  
33 first degree); subdivision one of section 130.35 (rape in the first  
34 degree); subdivision one of section 130.50 (criminal sexual act in the  
35 first degree); subdivision one of section 130.65 (sexual abuse in the  
36 first degree); paragraph (a) of subdivision one of section 130.67  
37 (aggravated sexual abuse in the second degree); paragraph (a) of subdi-  
38 vision one of section 130.70 (aggravated sexual abuse in the first  
39 degree); section 135.05 (unlawful imprisonment in the second degree);  
40 section 135.10 (unlawful imprisonment in the first degree); section  
41 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in  
42 the first degree); section 135.60 (coercion in the third degree);  
43 section 135.61 (coercion in the second degree); section 135.65 (coercion  
44 in the first degree); section 140.10 (criminal trespass in the third  
45 degree); section 140.15 (criminal trespass in the second degree);  
46 section 140.17 (criminal trespass in the first degree); section 140.20  
47 (burglary in the third degree); section 140.25 (burglary in the second  
48 degree); section 140.30 (burglary in the first degree); section 145.00  
49 (criminal mischief in the fourth degree); section 145.05 (criminal  
50 mischief in the third degree); section 145.10 (criminal mischief in the  
51 second degree); section 145.12 (criminal mischief in the first degree);  
52 section 150.05 (arson in the fourth degree); section 150.10 (arson in  
53 the third degree); section 150.15 (arson in the second degree); section  
54 150.20 (arson in the first degree); section 155.25 (petit larceny);  
55 section 155.30 (grand larceny in the fourth degree); section 155.35  
56 (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, two or four of section 240.30 (aggravated harassment in the second degree); section 240.31 (aggravated harassment in the first degree); section 240.79 (aggravated threat of mass harm in the second degree); section 240.80 (aggravated threat of mass harm in the first 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 terrorist 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 (criminal 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.

§ 4. Paragraph (a) of subdivision 1 of section 530.13 of the criminal procedure law, as amended by chapter 794 of the laws of 1986, is amended to read as follows:

(a) stay away from the home, school, business or place of employment of the victims of, or designated witnesses to, the alleged offense, or stay away from the places or events subject to threats of mass harm in an alleged offense defined in section 240.78, 240.79, or 240.80 of the penal law, as shall be specifically named by the court in such order;

§ 5. Paragraph (a) of subdivision 4 of section 530.13 of the criminal procedure law, as amended by chapter 610 of the laws of 1998, is amended to read as follows:

(a) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense; or stay away from the places or events subject to threats of mass harm in an alleged offense defined in section 240.78, 240.79, or 240.80 of the penal law, as shall be specifically named by the court in such order;

§ 6. This act shall take effect immediately.